



SUBSTITUTE ORDINANCE NO. 25845

1 AN ORDINANCE vacating portions of the streets contained within these
2 plats situated in the City of Tacoma, State of Washington: THE
3 TACOMA LAND COMPANY'S FOURTH ADDITION TO
4 TACOMA, W.T., according to the plat thereof recorded in
5 Volume 3 of Plats at page 60, records of Pierce County,
6 Washington; JEFFERSON STREET ADDITION TO TACOMA,
7 W.T., according to the plat recorded in Volume 1 of Plats at page
8 105, records of Pierce County, Washington; MAP OF NEW
9 TACOMA, WASHINGTON TERRITORY, according to the map
10 thereof filed for record February 3, 1875, in the office of the
11 County Auditor in Pierce County, Washington; Being described
12 as follows: Commencing at the Northeast corner of Lot 1,
13 Block 1904, THE TACOMA LAND COMPANY'S FOURTH
14 ADDITION TO TACOMA, W.T., as the Point of Beginning;
15 thence West to the Northwest corner of Lot 1, Block 1904;
16 thence South to the Southwest corner of Lot 14, Block 1904;
17 thence West at right angles to a point on the Easterly line of
18 Block 1905; thence Northeasterly along the Easterly boundary
19 line of Block 1905 to the Northeast corner of Lot 1, Block 1905;
thence West along the Southerly boundary line of South
19th Street to the Northwest corner of Lot 1, Block 1906, MAP
OF NEW TACOMA, WASHINGTON TERRITORY; thence
Northeasterly to the Southwest corner of Lot 22, Block 1806 said
plat as recorded; thence East along the Northerly boundary line
of South 19th Street to the Southeast corner of Lot 4,



Block 1805, THE TACOMA LAND COMPANY'S FOURTH ADDITION TO TACOMA, W.T.; thence North to the most Northerly point of Lot 1, Block 1805; thence Northeasterly to the Northwest corner of Lot 8, Block 1804, of said plat; thence Southerly to the Southwest corner of Lot 19, Block 1804; thence Easterly to the Southeast corner of Lot 19, Block 1804; thence South to the Point of Beginning. TOGETHER WITH a portion of Commerce Street, described as follows: Commencing at the Southeasterly corner of Lot 5, Block 1806, MAP OF NEW TACOMA, WASHINGTON TERRITORY, as the Point of Beginning; thence Northerly to a point on the Easterly line of Lot 2, Block 1806, said point being perpendicular to the extended Southerly line of Lot 1, Block 1804, THE TACOMA LAND COMPANY'S FOURTH ADDITION TO TACOMA, W.T., extended Westerly; thence Easterly along said extension to the Westerly boundary line of Hood Street; thence Southwesterly to the Point of Beginning and terminus. EXCEPT easements and rights-of-way of record granted to others, and retaining and reserving therein easements for storm and/or sanitary sewers, electrical facilities, and water distribution facilities over the entire vacated area.

WHEREAS all steps and proceedings required by law and by resolution of the Council to vacate the portion of the streets hereinafter named have been duly taken and performed; Now, Therefore,

BE IT ORDAINED BY THE CITY OF TACOMA:

Section 1. That the City Council hereby adopts the Hearing Examiner's Findings, Conclusions, and Recommendations as contained in the Hearing Examiner's Report and Recommendation to the City



1 Council bearing File No. 124.1020, dated September 15, 1995, as
2 modified by the Hearing Examiner's Order Granting in Part and Denying
3 in Part Motions for Reconsideration and Amending Report, dated
4 November 8, 1995, which Report and Recommendation, and Order, are
5 on file in the office of the City Clerk and by this reference incorporated
6 herein as though fully set forth.
7

8
9 Section 2. That the City Council hereby concurs in the Hearing
10 Examiner's finding that the vacation of those streets described herein
11 will allow the development of educational facilities, and will thus provide
12 a needed public benefit.
13

14 Section 3. That portion of South 19th Street lying between Pacific
15 Avenue and Jefferson Avenue, and more particularly described as
16 follows:
17

18 Portions of the streets contained within these plats situated in
19 the City of Tacoma, State of Washington:

20 THE TACOMA LAND COMPANY'S FOURTH ADDITION TO
21 TACOMA, W.T., according to the plat thereof recorded in
22 Volume 3 of Plats at page 60, records of Pierce County,
23 Washington;
24
25



1 JEFFERSON STREET ADDITION TO TACOMA, W.T.,
2 according to the plat recorded in Volume 1 of Plats at page 105,
3 records of Pierce County, Washington;

4 MAP OF NEW TACOMA, WASHINGTON TERRITORY,
5 according to the map thereof filed for record February 3, 1875,
6 in the office of the County Auditor in Pierce County,
7 Washington;

8 Being described as follows:

9 Commencing at the Northeast corner of Lot 1, Block 1904, THE
10 TACOMA LAND COMPANY'S FOURTH ADDITION TO
11 TACOMA, W.T., as the Point of Beginning; thence West to the
12 Northwest corner of Lot 1, Block 1904; thence South to the
13 Southwest corner of Lot 14, Block 1904; thence West at right
14 angles to a point on the Easterly line of Block 1905; thence
15 Northeasterly along the Easterly boundary line of Block 1905 to
16 the Northeast corner of Lot 1, Block 1905; thence West along
17 the Southerly boundary line of South 19th Street to the
18 Northwest corner of Lot 1, Block 1906, MAP OF NEW
19 TACOMA, WASHINGTON TERRITORY; thence Northeasterly
20 to the Southwest corner of Lot 22, Block 1806 said plat as
21 recorded; thence East along the Northerly boundary line of
22 South 19th Street to the Southeast corner of Lot 4, Block 1805,
23 THE TACOMA LAND COMPANY'S FOURTH ADDITION TO
24 TACOMA, W.T.; thence North to the most Northerly point of
25 Lot 1, Block 1805; thence Northeasterly to the Northwest corner
26 of Lot 8, Block 1804, of said plat; thence Southerly to the
Southwest corner of Lot 19, Block 1804; thence Easterly to the
Southeast corner of Lot 19, Block 1804; thence South to the
Point of Beginning.

23 TOGETHER WITH a portion of Commerce Street, described as
24 follows: Commencing at the Southeasterly corner of Lot 5,



1 Block 1806, MAP OF NEW TACOMA, WASHINGTON
2 TERRITORY, as the Point of Beginning; thence Northerly to a
3 point on the Easterly line of Lot 2, Block 1806, said point being
4 perpendicular to the extended Southerly line of Lot 1,
5 Block 1804, THE TACOMA LAND COMPANY'S FOURTH
6 ADDITION TO TACOMA, W.T., extended Westerly; thence
7 Easterly along said extension to the Westerly boundary line of
8 Hood Street; thence Southwesterly to the Point of Beginning
9 and terminus.

10 EXCEPT easements and rights-of-way of record granted to
11 others.

12 is hereby vacated, and the land so vacated is hereby surrendered and
13 attached to the property bordering thereon, respectively, as a part
14 thereof, and all right or title of the City of Tacoma in and to the portion of
15 the streets so vacated does hereby vest in the owners of the property
16 abutting thereon, all in the manner provided by law; provided however,
17 that there is hereby retained and reserved, pursuant to statutes of the
18 State of Washington, the following easements, to wit:

19 A. An easement in favor of the City of Tacoma over the entire
20 vacated area for the construction, operation, and maintenance of
21 storm and/or sanitary sewers, together with the perpetual right and
22 privilege to enter upon each and every part of the property
23 hereinabove reserved at any time and with all necessary agents and
24 employees, materials, appliances and equipment, for the purpose of
25 constructing, reconstructing, inspecting, operating, repairing or
26 maintaining said storm/sanitary sewers.



1
2 B. An easement in favor of the City of Tacoma, Public Utilities Light
3 Division, over the entire vacated area for the construction, operation,
4 and maintenance of electrical facilities, together with the perpetual
5 right and privilege to enter upon each and every part of the property
6 hereinabove reserved at any time and with all necessary agents and
7 employees, materials, appliances and equipment, for the purpose of
8 constructing, reconstructing, inspecting, operating, repairing or
9 maintaining said electrical facilities.

10 C. An easement in favor of the City of Tacoma, Public Utilities Water
11 Division, over the entire vacated area for the construction, operation,
12 and maintenance of water distribution facilities, together with the
13 perpetual right and privilege to enter upon each and every part of the
14 property hereinabove reserved at any time and with all necessary
15 agents and employees, materials, appliances and equipment, for the
16 purpose of constructing, reconstructing, inspecting, operating,
17 repairing or maintaining said water distribution facilities.

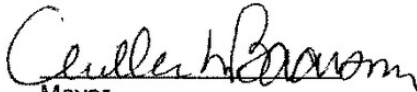
18 Section 4. That, pursuant to Section 9.22.010 of the Tacoma
19 Municipal Code, the City Council hereby finds that the vacation of the
20 street right-of-way described herein is in the best interest of the City.
21 Upon such findings, the City Council hereby waives any compensation
22 that may be due the City pursuant to Section 9.22.010 of the Tacoma
23 Municipal Code.

24 Section 5. That the City Council hereby finds that the conditions
25 recited in the Hearing Examiner's Report and Recommendation may not
26

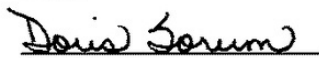


1 reasonably be met within 60 days following the first reading of this
2 ordinance, as required by Section 9.22.090 of the Tacoma Municipal
3 Code, and therefore determines that this vacation proceeding shall be
4 deemed abandoned if the conditions recited in the Hearing Examiner's
5 Report and Recommendation are not met within 365 days following the
6 first reading of this ordinance, unless good cause is shown.
7

8
9 Passed AUG 13 2002

10 
11 Mayor


12 Attest:

13 
14 City Clerk

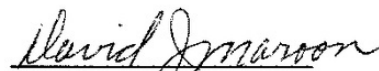
15 Location: Portion of South 19th Street lying between Pacific
16 Avenue and Jefferson Avenue

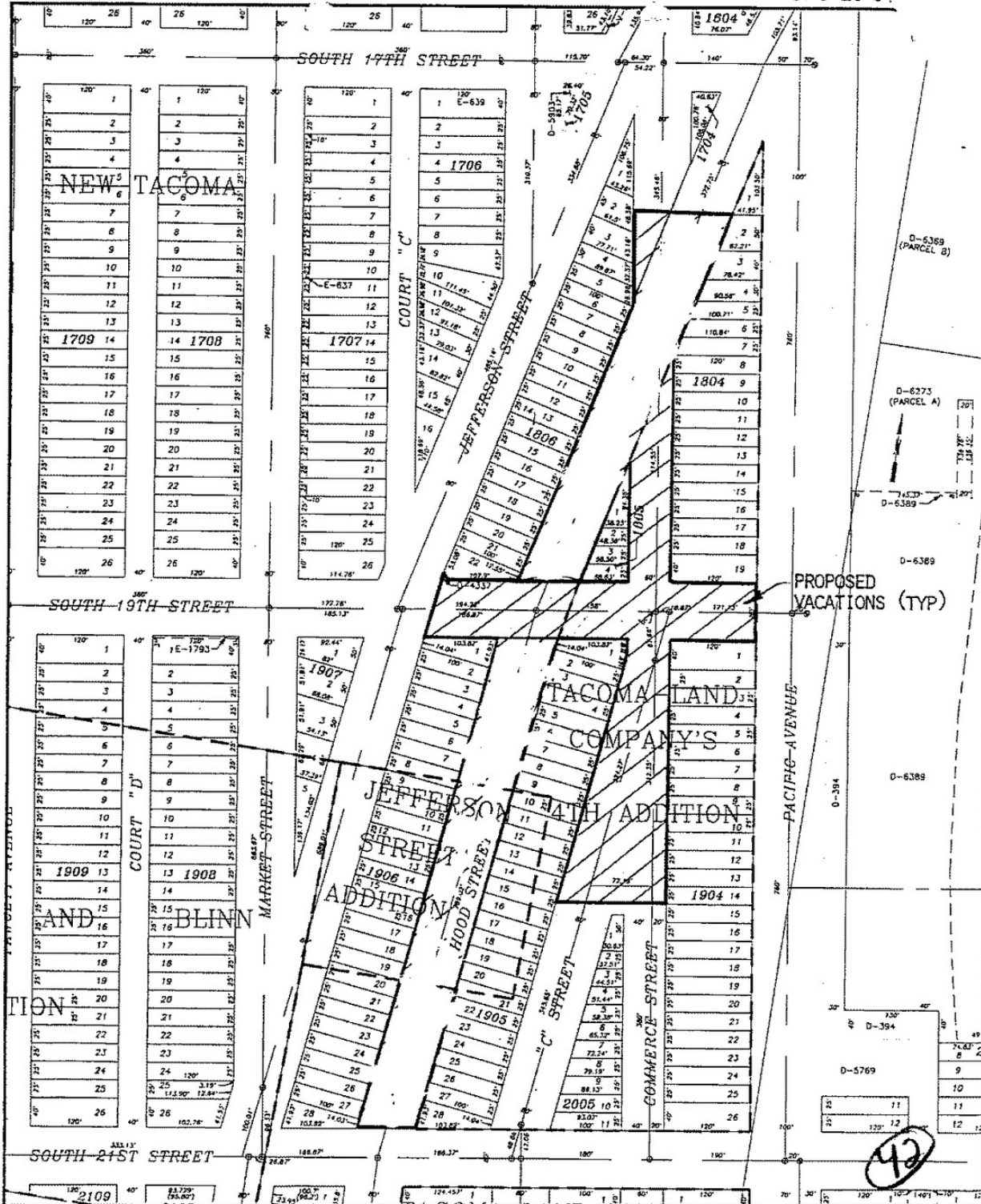
17 Petitioner: University of Washington
18 Vacation Request #124.1020

19 Approved as to form and legality:

20 
21 Assistant City Attorney

Property description approved:

22 
23 Chief Surveyor
24 Public Works Department



UW Campus Vacation

SCALE: 1"=NTS

MAY 19, 1995

This drawing is neither a legally recorded map nor a survey and is not intended to be used as one. To be used for reference purposes only. The City of Tacoma is not responsible for any inaccuracies herein contained. If discrepancies are found, please contact this office at 594-7891.

OFFICE OF THE HEARING EXAMINER

CITY OF TACOMA

In the Matter of:

Street Vacation Petition
File No. 124.1020

University of Washington,
Petitioner.

ORDER GRANTING IN PART AND
DENYING IN PART
MOTIONS FOR RECONSIDERATION
AND AMENDING REPORT

THIS MATTER came before the undersigned Hearing Examiner for the City of Tacoma on the motions filed by Merritt + Pardini Architects (hereinafter "Merritt + Pardini"), Alexander McLaren, Fred Roberson, and Grahame J. Fenton requesting reconsideration of the Examiner's report in the above-captioned matter recommending approval of the vacation of various street rights-of-way situated within the petitioner's Tacoma Branch Campus site. (The Motions for Reconsideration are appended hereto as Attachments "A" through "D".)

Responses to the Motions for Reconsideration were filed by the Department of Public Works (hereinafter "DPW") and the petitioner. See Attachments "E" and "F" appended hereto.

Having considered the motions and the responses thereto, having reviewed the file in the matter, and being otherwise fully advised, the Examiner hereby determines as follows:

Merritt + Pardini's Motion for Reconsideration:

1. The Examiner found that there was insufficient evidence in the record to make a determination as to whether Merritt + Pardini is an owner of property abutting upon the right-of-way sought to be vacated. See Finding 5. However, the petitioner did

ORDER GRANTING IN PART AND
DENYING IN PART
MOTIONS FOR RECONSIDERATION
AND AMENDING REPORT

1 not object to Merritt + Pardini's participation in the hearing, and the Examiner permitted
2 Merritt + Pardini a full opportunity to present evidence in support of its position in
3 opposition to the vacation petition presented. Further, that evidence was carefully
4 considered by the Hearing Examiner in reaching his recommendation in the matter. No
5 error has been shown.

6
7 2. In regard to Merritt + Pardini's contention in its motion that its access will be
8 substantially impaired as a result of the vacation of Commerce Street, south of its
9 property, the Examiner finds that such evidence does not support the contention. If
10 Commerce Street is vacated, as proposed by the petitioner, access from the north to
11 Merritt + Pardini's property will be generally unaffected and those traveling from the
12 south will be limited to using Pacific Avenue and South 17th Street, rather than also
13 having available a route utilizing South 19th Street and Commerce Street. Such
14 inconvenience, if any, does not rise to the level of substantial impairment of access. *See*
15 *e. g. Mackie v. Seattle*, 19 Wn. App. 464, 469, 576 P.2d 414 (1978). Moreover, Merritt
16 + Pardini's efforts to vacate Commerce Street up to South 17th Street belie its contention
17 in this regard.

18
19 3. Merritt + Pardini urges that the petitioner, if it is successful in the vacation of
20 Commerce Street, as proposed, be required to construct a turnaround at the south
21 terminus of the remaining portion of Commerce Street, south of South 17th Street. To
22 this, the petitioner agrees. *See* Response of University of Washington (hereinafter
23 "UW") to Merritt + Pardini's Motion for Reconsideration, para. "b" at page 2.
24
25
26

27 **ORDER GRANTING IN PART AND**
28 **DENYING IN PART**
MOTIONS FOR RECONSIDERATION
AND AMENDING REPORT

1 Accordingly, Condition 6.B, as set forth in the Hearing Examiner's Report
2 and Recommendation entered on September 15, 1995, should be amended to reflect this
3 agreement. The amended condition should read as follows:

- 4 B. The UW shall provide, at the south end of the remaining portion
5 of Commerce Street, south of South 17th Street, barricades,
6 bollards, a gate or similar device to prevent unauthorized access
7 into the Campus at the terminus of Commerce Street. In
8 addition, the UW shall construct a turnaround in accordance
9 with the requirements of the DPW at the south terminus of
10 Commerce Street, south of South 17th Street.

11 **McLaren's, Roberson's and Fenton's Motions for Reconsideration:**

12 4. Messrs. McLaren, Roberson, and Fenton do not abut upon the street rights-
13 of-way sought to be vacated in these proceedings. In order to have standing to challenge
14 a proposed vacation, the State Supreme Court in *State v. Wineberg*, 74 Wn.2d 372, 375,
15 444 P.2d 787 (1968) set forth the following requirements:

16 (1) A property owner must abut directly upon the portion of
17 the roadway being vacated in order to be awarded compensable
18 damages per se; (2) Where the closure and the owner's
19 property are separated by an intersecting street, compensation is
20 usually denied; (3) Where the closure occurs within the same
21 block, but not directly in front of the property, the owner must
22 show physical impairment of his access different in kind from
23 that of the general public (i.e., if the impairment is merely an
24 added inconvenience that is common to all travelers, it cannot
25 form the basis for payment of compensation). (Emphasis
26 supplied.)

27 *See also Mackie v. Seattle, supra; Hoskins v. Kirkland*, 7 Wn. App.
28 957, 503 P.2d 1117 (1972).

None of the rights-of-way to be vacated are located directly in front of the properties
owned by McLaren, Roberson, and Fenton. Thus, these property owners must show

ORDER GRANTING IN PART AND
DENYING IN PART
MOTIONS FOR RECONSIDERATION
AND AMENDING REPORT


1 physical impairment of access, which is different in kind from that of the general public,
2 which must be more than a mere inconvenience. In the case of the McLaren, Roberson,
3 and Fenton properties, street access will be maintained to these properties. Further, the
4 petitioner has agreed to provide a vehicular access link between "C" and Commerce
5 Streets. See Response of UW to Alex McLaren's Request for Reconsideration at page 3.
6 The foregoing agreement should be made a condition to the vacation. Accordingly,
7 Condition 6.H should be amended to read as follows:
8

9 H. A through connection shall be constructed between
10 Commerce and "C" Street in accordance with the requirements
11 of the DPW.

12 The Examiner does not find that the vacation of the subject rights-of way will
13 result in any substantial impairment of access to the McLaren, Roberson, and Fenton
14 properties, particularly, in view of the condition agreed to by the petitioner to provide an
15 access link between "C" and Commerce Streets. Thus, the property owners lack standing
16 to maintain a challenge to the subject vacation petition.

17 Based on the foregoing, the Motions for Reconsideration filed by Merritt +
18 Pardini, Alex McLaren, Fred Roberson, and Grahame J. Fenton should be and are hereby
19 denied, except to the extent of the amendments to recommended Conditions 6B and 6H as
20 set forth herein.
21

22 DATED this 8th day of November, 1995.

23 
24 **RODNEY M. KERSLAKE, Hearing Examiner**

25 TRANSMITTED this 8th day of November, 1995, via certified mail to the following:

26 Stephanie A. Arend, Attorney at Law, P. O. Box 1157, Tacoma, WA 98401-1157

27 **ORDER GRANTING IN PART AND**
28 **DENYING IN PART**
MOTIONS FOR RECONSIDERATION
AND AMENDING REPORT

Alexander McLaren, 1953 South "C" Street, Tacoma, WA 98402
Fred Roberson, Roberson Building Company, 10828 Gravelly Lake Dr. S.W.,
Suite 204, Tacoma, WA 98499
Grahame J. Fenton, B.D.F. Tacoma, General Managing Partner, McDonald/Smith
General Partnership, 8313 Onyx Drive S.W., Tacoma, WA 98498
Joseph C. Brawley, AIA, Projects Director for Central and Branch Campuses,
Capital Projects Office, University Facilities, Box 352205, Seattle, WA
98095-2205

TRANSMITTED this 8th day of November, 1995, to the following:

Attorney General of Washington, Attention: Mark S. Green, Assistant Attorney
General, University of Washington Division, 101 Administration, AF-50,
University of Washington, Seattle, WA 98195
Larry Leggett, Attorney at Law, 110 110th Avenue N.E., Suite 607, Bellevue, WA
98004
George See, 1032 S. 72nd Street, Tacoma, WA 98404
Victor Brower, 45 Broadway South, Apt. 6, Tacoma, WA 98402
Burlington Northern Railroad, Attention: Steve H. Myhr, Manager Property
Management, 999 Third Avenue, Room 2100, Seattle, WA 98104-4080
US West Communications, Attention Mike Spivey, Engineer, 7850 S. Trafton,
Bldg. "B," Tacoma, WA 98402-5842
City Clerk, City of Tacoma
Department of Public Works, City of Tacoma (BLUS-LUA/Henderson)
Department of Public Works, City of Tacoma (Engineering/Gower)
Planning and Development Services, City of Tacoma (M. Smith)
Tacoma Public Utilities, City of Tacoma (Prop. Mgmt./Denard)
Fire Department, City of Tacoma (Anderson)

**ORDER GRANTING IN PART AND
DENYING IN PART
MOTIONS FOR RECONSIDERATION
AND AMENDING REPORT**

5

47
CITY OF TACOMA
HEARING EXAMINER
TACOMA MUNICIPAL BUILDING
147 MARKET STREET, ROOM 720
TACOMA, WASHINGTON 98402-3758

NOTICE

Pursuant to Sections 1.23.140 of the *Tacoma Municipal Code*, any appellant shall have seven (7) days from the date of issuance of the Examiner's decision on the reconsideration to appeal the Examiner's decision to the City Council. (NOTE: Said appeal is to be filed with the City Clerk.)

46

RECONSIDERATION/NO FEE

LAW OFFICES

GORDON, THOMAS, HONEYWELL, MALANCA, PETERSON & DAHEIM

TACOMA OFFICE
2200 FIRST INTERSTATE PLAZA
POST OFFICE BOX 1157
TACOMA, WASHINGTON 98401-1157
(206) 572-5050
FACSIMILE (206) 572-4518
REPLY TO TACOMA OFFICE

STEPHANIE A. AREND

SEATTLE OFFICE
ONE UNION SQUARE
600 UNIVERSITY, SUITE 2101
SEATTLE, WASHINGTON 98101-4185
(206) 447-8505
FACSIMILE (206) 622-9779

September 29, 1995

Rodney Kerslake, Hearings Examiner
City of Tacoma
747 St. Helens Street
Tacoma, WA 98402

Re: *University of Washington Street Vacation, No. 124.1020*
Request for Reconsideration

Dear Examiner Kerslake:

This letter is submitted on behalf of Merritt + Pardini in support of its request that you reconsider your decision dated September 15, 1995.

1. Finding No. 5: Merritt + Pardini has standing to challenge the street vacation petition because it is an abutting property owner and, even if it is not an abutting property owner, its access is substantially effected by the proposed vacation and it is otherwise substantially harmed. See London v. City of Seattle, 93 Wn.2d 657, 660, 611 P.2d 781 (1980).

The street vacation statute does not define "abutting property owner," but the concept of an abutting property owner appears throughout the statute. Most significantly, abutting property owners have standing to petition or object to a petition for a street vacation, and abutting property owners obtain title to the vacated street. Therefore, if Merritt + Pardini is an abutting property owner for purposes of taking title to a portion of the vacated street, it must also be an abutting property owner for purposes of standing.

At the hearing, Merritt + Pardini submitted deeds dating back to the late 1800's tracing the title not only of its parcel, block 1704, but also of the triangular parcel directly abutting and adjacent to block 1704 that has since become part of Commerce Street. Attached to this letter as Exhibit A is an enlargement of one of the maps that was attached to the staff report. This map clearly illustrates block 1704 and the triangular parcel. Title to the triangular parcel followed title to block 1704. A portion of the triangular parcel is within that portion of Commerce Street that is part of the University of Washington's petition.

ATTACHMENT "A"

49

September 29, 1995
Page 2

The general rule is that upon vacation of a street, the public easement is extinguished and the abutting property owners regain unencumbered title to the center of the street. RCW 35.79.040; London v. City of Seattle, 93 Wn.2d at 666. This rule is based on the presumption that the abutters or their predecessors, prior to dedicating the land for street purposes, originally owned the underlying fee to the center of the street. London v. City of Seattle, 93 Wn.2d at 666 (citing 2 W. Elliott, The Law of Roads and Streets § 1191 (4th ed. rev. 1926)). "The general rule, however, is subject to control by the particular circumstances of the case when one abutting owner is shown to have had no fee interest in the street and another the entire fee therein. In that instance, the abutter that had no underlying fee interest does not take to the center of the street upon its vacation." Id. at 666-67. Moreover, vested rights cannot be affected by a street vacation. RCW 35.79.050.

In this case, the fee interest to the triangular parcel was vested in the owner of block 1704 by virtue of it being conveyed with block 1704. In other words, the underlying fee interest is vested in Merritt + Pardini, who will take unencumbered title to the triangular parcel upon vacation of Commerce Street. It would be illogical and unreasonable to hold that Merritt + Pardini is an abutting owner with respect to acquiring title to the vacated street but not an abutting owner with respect to the notice and standing provisions. Merritt + Pardini is therefore an abutting owner and has a vested right in this regard.

The University of Washington, however, claims that it is the only abutting owner to the portion of Commerce Street it seeks to vacate. If their position is accepted, they will gain title to a portion of the triangular parcel, even though the underlying fee interest is vested in Merritt + Pardini. This result clearly affects Merritt + Pardini's vested rights, in violation of RCW 35.79.050.

2. Finding No. 9: This finding is in error to the extent that it fails to acknowledge the safety concerns raised by vacating Commerce Street as proposed rather than to the southern end of 17th Street. Even Al Tabaldi testified that it would be desirable to vacate Commerce to the southern portion of 17th Street. The safety concern is exacerbated by the barricading that the University will install along the northern most portion of the vacated Commerce Street, rather than a turn-around as represented at the hearing.

Moreover, there is no public benefit from leaving that portion of Commerce Street as a public street. It will simply dead-end and serve no public purpose what-so-ever.

September 29, 1995

Page 3

3. Finding No. 15: The traffic circulation pattern for access to the Merritt + Pardini building will be significantly and adversely affected. As Jim Merritt testified and as set forth in the letter dated August 1, 1995 submitted on behalf of Merritt + Pardini, the deflection in route is several blocks. Cf. State v. Wineburg, 74 Wn.2d 372, 444 P.2d 787 (1968) (a slight inconvenience that is common to all travelers does not constitute a substantial impairment of access). In this regard, Merritt + Pardini is uniquely situated and will suffer harm special and distinct from the public generally.

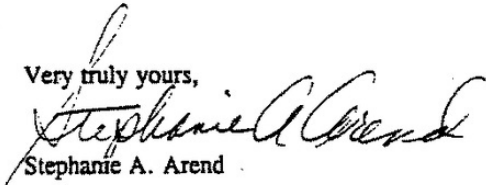
4. Finding No. 18: Merritt + Pardini will have its access "substantially impaired" as a result of the vacation of Commerce Street as proposed. Access in this regard is both the traffic circulation patterns as well as the actual access from a public road to the site. The traffic circulation for Merritt + Pardini employees and clients to reach the site will be significantly impacted. Moreover, the ability to gain direct access to the building safely will be dramatically diminished.

5. Conclusions No. 4, No. 6B: Conclusion No. 4 is in error in as much as it states that the issues raised by Merritt + Pardini are insufficient to deny the petition. For the reasons set forth in this letter, and as presented at the hearing, the petition should be denied.

These conclusions also impose a requirement on the University of Washington to provide "barricades, gating, bollards, or other devices" to prevent unauthorized access to the campus. By vacating Commerce as proposed and not requiring a turnaround increases the likelihood that cars will use the Merritt + Pardini parking area as a "loop road." This presents significant safety concerns to the employees and clients of Merritt + Pardini. If the petition is approved, the University of Washington should be required to construct a turnaround, with a sufficient turning radius for emergency vehicles, rather than blockading a dead-end street.

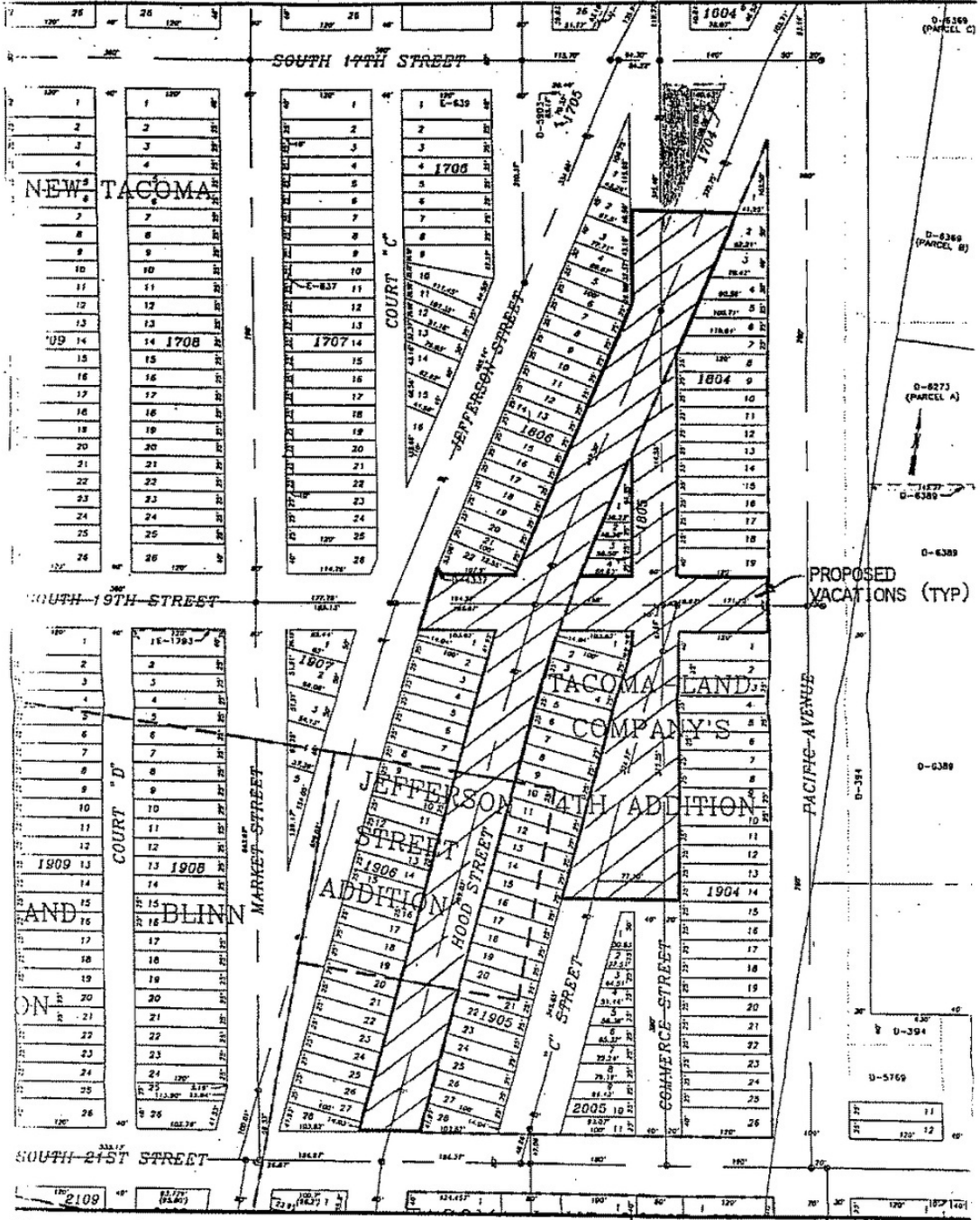
Thank you for your consideration.

Very truly yours,


Stephanie A. Arend

SAA:gam

cc: Merritt + Pardini
Sharon Coleman, University of Washington



age 11
Campus Vacation

SCALE: 1"=NT6
May 19, 1935

This drawing is neither a legal map nor a survey, and is not to be used for any purpose other than for reference only. The City of Tacoma is not responsible for any inaccuracies contained herein. If discrepancies are shown, please contact the office at 31

Recd 7-27-95
4:35 pm
Helen Gammie / S
McLAREN

1953 SOUTH C STREET
TACOMA, WASHINGTON 98402 (206) 383-4000

29 September 1995

Rodney M. Kerslake
Office of the Hearings Examiner
City of Tacoma
950 Broadway
Tacoma, WA 98402

Re: Application by University of Washington to vacate streets in
vicinity of Tacoma branch campus: File No. 124.1020

Dear Mr. Kerslake:

The purpose of this letter is to request that you reconsider the report and recommendation you issued on 15 September in the above-referenced matter.

The grounds for this request are both procedural and substantive. My concerns have been previously communicated to you in the letter I filed with your office on 11 August. This letter reviews and amplifies those concerns.

NOTICE

The means of notice given by the University of Washington, proponent of the vacation, was insufficient in that it was not calculated to provide adequate notice in the instant case. To the contrary, the actions of the proponent appear to have been calculated to avoid publication and, thus, preclude opposition to its vacation proposal. The picture which emerges is that the proponent first notified all interested parties by EIS that no vacation would occur until 1997. However, it appears that the UW then quietly commenced to pursue vacation immediately. Second, it drafted boundaries different from those previously disclosed in the EIS ostensibly to avoid having to give notice to potential opponents. And, instead, at the time of hearing the proponent apparently represented to you that all businesses in the subject area supported its action when in fact no such support existed because notice had not been adequately made.

The standard for providing notice followed by the proponent was not only not adequate for the factual reasons given above but was also not sufficient as a matter of law in the instant case. In the interdepartmental communication to you dated 5 September 1995 from Assistant City Attorney Kyle Crews to yourself, Mr. Crews states with respect to Tacoma Municipal Code Section 9.22.060 that the "notice requirements [for vacations] are quite restrictive compared to those of other land use applications" and concludes that the

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ATTACHMENT "B"

"technical letter of the law was met" in the instant case. Mr. Crews's interpretation should be rejected and the proponent should be required to implement a means of notice more calculated to inform and notify interested persons. If the proponent had not created a climate of contrary information regarding the date and timing of the proposed vacation and if the proponent had not deviated from the boundaries it previously publicized in an ostensible attempt to further avoid notice to potential opponents, the proponent's "technical" satisfaction of the notice requirements might have been acceptable. However, in light of these events, the proponent should be required to renotify interested persons using a means more calculated to reach its audience. Because it appears that the UW "gerrymandered" the proposed vacation boundaries to avoid abutting private landowners who might offer potential opposition, the means of notice employed by the UW to apprise interested persons of the rehearing of this matter should be scrutinized.

Finally, despite its apparent attempt to devise vacation boundaries to avoid abutting private landowners who might offer potential opposition, it would appear that the UW miscalculated with respect to the property owned by the McDonald-Smith Partnership. The loft apartments owned by this partnership abutt the proposed vacation site and Grahame Fenton, general partner, unequivocally denies having received proper notice as required even under the most restrictive interpretation of Tacoma Municipal Code Section 9.22.060. Mr. Fenton is filing a separate letter with your office advising you of lack of notice. For this party alone, the hearing process must be repeated.

Thus, for the reasons discussed, notice was either inadequate or wholly lacking and a new hearing on the UW's proposed vacation must be conducted ab initio.

SUBSTANTIVE CONCERNS

In my prior letter to you dated 11 August, I addressed all of the six criteria under Tacoma Municipal Code Section 9.22.070 which are required to be met for granting a vacation. Now, I wish to amplify on only two of those criteria. Criterion 2 proscribes vacation if street pattern or traffic circulation will be adversely affected.

The University's application to vacate streets is premature. The closure of these streets fails to comport with the nature and level of student enrollment which the street closure is intended to serve. The street closure is intended to create a discrete campus oasis for pedestrian use only. The University's planning documents to date have indicated that enrollment will be low in the near future and that the majority of students will be part-time evening students. They will arrive by vehicle in late afternoon during the period of heaviest traffic congestion. (University of Washington Branch Campus Draft Supplemental Environmental Impact Statement p. 4-37). Accordingly, low student pedestrian usage of the campus does not justify closure of the subject streets at this early date.

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11/17

To the contrary, existing traffic and the preponderance of commuting students suggest that the subject streets should not be closed until a need to do so develops at a later date. Thus, why vacate and close the streets now when such action is not consistent with the facts justifying the action? From the UW's own planning documents, it would appear that the vacation is not necessary until its enrollment rises and students begin to reside on campus, instead of commuting to campus. Thus, vacation at this time is premature.

As stated above, Criterion 2 proscribes vacation if street pattern or traffic circulation will be adversely affected and, in addition, Criterion 5 proscribes vacation to avoid land-locking or impairing access to property of an abutting landowner. Again, I encourage you to deem me to be an abutting landowner within the meaning of Criterion 5 because the UW chose a boundary chosen different from the one it previously publicized in its EIS and, thus, and appears to have shifted the boundary only a few feet to avoid the procedural notice and substantive rights which would have been accorded to me as an abutting landowner.

As I stated in my previous letter, the proposed vacation drastically affects access to my property. My property is a long triangular city block composed of two buildings. Commerce and C Streets form the longest boundaries to my property. Stricture or closure of streets as proposed by the University would affect access to most of my property. It is unreasonable to think that if C and Commerce Streets were blocked, traffic would be willing to drive into these streets to access my property and then back out of the streets to leave. Even if a turnaround were to be provided at the end of C and Commerce streets, the appeal of and accessibility to my property would be diminished because drivers tend to avoid dead end streets. Although linking C and Commerce Streets would improve access to my property, the University has made no firm commitment that the streets would be linked. However, even though access would be improved, it would still be substantially impaired because the only access into C and Commerce Streets would still be through 21st Street. Thus, only one street, 21st Street, would provide direct access to my city block of buildings. In other words, only 1/5 of my property would be readily accessible while 4/5 of my property would be largely inaccessible. Such diminished access would restrict the types of uses for my property and lower its value. For instance, business tenants desire to lease premises which are readily and easily accessible. Diminution of accessibility directly translates into lessened value. If the vacation is granted, I should be compensated for the loss of value.

CONCLUSION

In conclusion, I wish to convey to you that notice of this matter has been inadequate and misleading due to prior conflicting information. The vacation request cannot be granted without rehearing because notice to me was inadequate and notice was wholly lacking to the the McDonald-Smith Partnership, an true abutting

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1-10

landowner within the strictest interpretation of TMC Section 9.22.060. Moreover, the vacation request should not be granted in its present form because of the reasons discussed to date that the public would be disserved although preventive measures could mitigate such disservice, the vacation is ill-timed and not consistent with the University's own declared development plan, and my private landholding would be deleteriously affected. If granted, the University should be required to compensate me for the loss in value to my property.

Very truly yours,



Alexander McLaren

56
10/1/60

September 28, 1995

Hearing Examiner
City of Tacoma
747 Market
Tacoma, WA 98402

Dear Sir:

Relating to your decision on 124.1020, concerning the vacation of Commerce Street by the University of Washington, I would like you to reconsider your decision. In effect, you have given the University of Washington a carte blanche to do whatever they want. You gave them the option of providing an avenue from Commerce Street to 'C' Street or simply providing a turn around on each street which would remove even more public parking. Naturally they'll opt for the latter version, because it is much cheaper.

You could have at least asked them to provide some public parking for the on street parking that they'll be doing away with.

Please let me know your decision, so I can proceed with the next step.

Very truly yours,



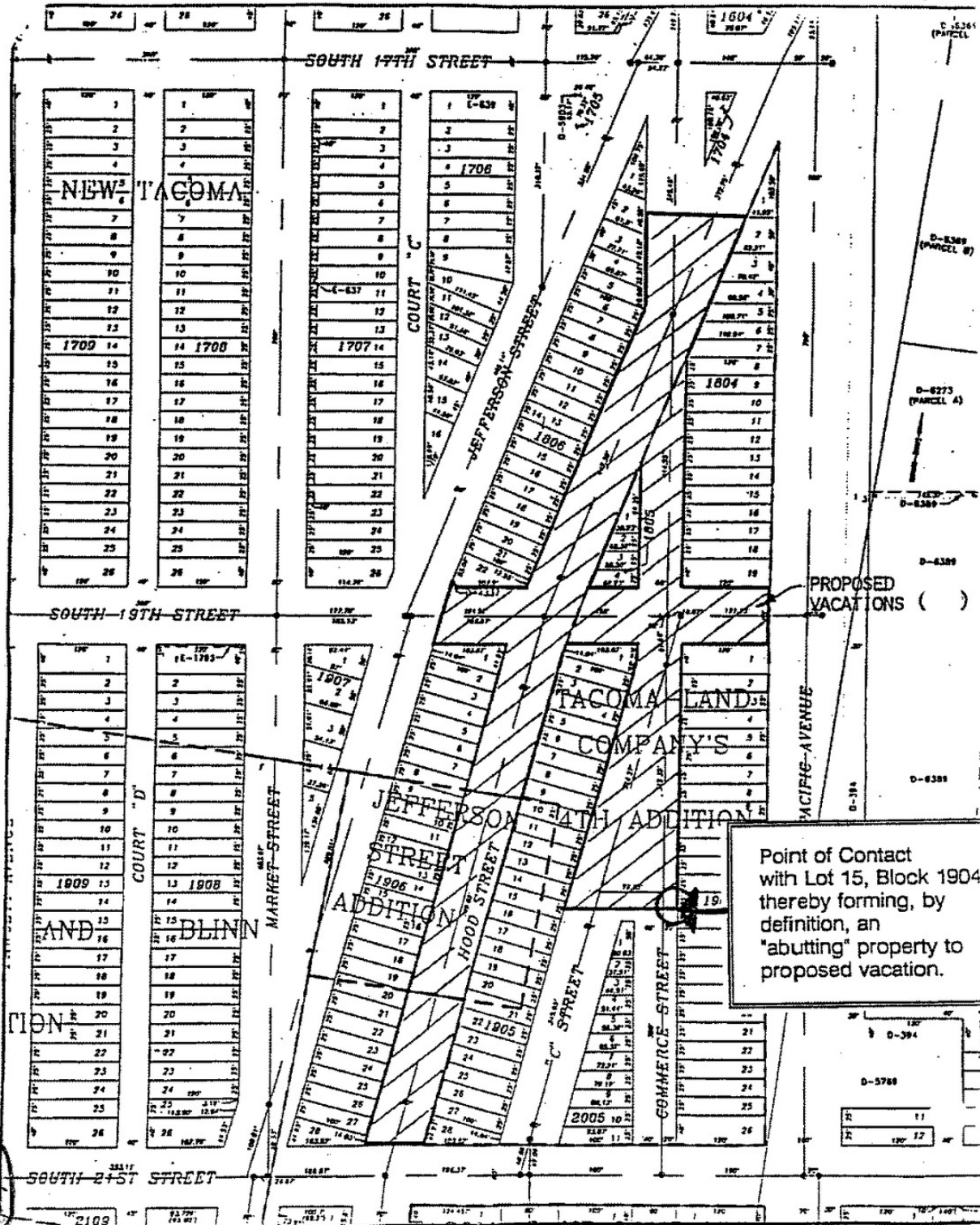
Fred Roberson
Owner

Roberson Building Company

10828 Gravelly Lake Drive SW, Suite 210 Tacoma, WA. 98496
(206) 581-4084 Fax (206) 581-4196

ATTACHMENT "C"

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SCALE: 1" = 25'

This drawing is neither a survey nor a map and is not intended to be used for any purpose other than for reference.

MAY 9-1995
ORIGINAL

NOTICE OF REQUEST FOR RECONSIDERATION

PETITIONER: University of Washington

FILE NO.: 124.1020

NOTICE is hereby given, pursuant to the Official Code of the City of Tacoma, RCW 1.23.120 and 1.23.130, for a Request for Reconsideration.

This Request for Reconsideration is based on the following Findings and Conclusions:

FINDINGS

1. Notifications for vacations are governed by Tacoma Municipal Code Section 9.22.060, which states, in part:

...notice to be given of the pendency of the petition by a written notice posted in three of the most public places in the City, a like notice in a conspicuous place on the street or alley sought to be vacated, a like notice in a newspaper of general circulation in the City of Tacoma, and a like notice to the legal property owners of all property abutting the right-of-way requested for vacation as enumerated on the applicant's vacation petition, and to any other interested parties of record.

2. Merriam Webster's Collegiate Dictionary, Tenth Edition, defines abut, in part, as "1. to touch along a border or a projecting part 2. a: to terminate at a point of contact".

3. The petition filed by the U.W. seeks, in part, a vacation of:

Commerce Street extending from the line between Lots 1 and 2, Block 1804, as extended westerly to the easterly margin of Block 1806, to the northerly margin of South 19th Street, and from the southerly margin of South 19th Street to the line between Lots 14 and 15, Block 1904, as extended westerly to the easterly margin of Block 1905

4. Number 18 of the Findings, as set forth in the Office of the Hearing Examiner, City of Tacoma's Report and Recommendation to the City Council, states: No abutting property owners will be landlocked or have their access substantially impaired as a result of the vacations proposed.

5. Number 23 of the Findings, as set forth in the Office of the Hearing Examiner, City of Tacoma's Report and Recommendation to the City Council, states: Notice of hearing was given in accordance with applicable legal requirements. All property owners of record and adjacent to the proposed vacation have been notified of the hearing date at least 30 days prior to the hearing, as required by TMC 9.22.060.

6. As set forth in my letter addressed to the City of Tacoma, Hearing Examiner, dated August 17, 1995, I was not notified, as legal property owner of the abutting property located at Lot 15, Block 1904, of the Hearing.

7. Number 3 of the Conclusions, as set forth in the Office of the Hearing Examiner, City of Tacoma's Report and Recommendation to the City Council, states, in part: In order to have standing to challenge the vacation of a street right-of-way, one must own property abutting the portion of street or alley vacated, or have their access substantially affected.

ATTACHMENT "D"

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8. The subject of refuse collection points was not addressed in the Office of the Hearing Examiner, City of Tacoma's Report and Recommendation to the City Council. As a property owner, the City of Tacoma required a facility be provided, at our cost, to store refuse containers. The location is within the new area designated for the connection between Commerce and South "C" Street. The subject relocation and/or reimbursement was not addressed in the Office of the Hearing Examiner, City of Tacoma's Report and Recommendation to the City Council.

9. Measurements as set forth in maps regarding the vacation do not allow a fire truck to make the proposed new turn, from Commerce onto South "C" Street, under the current required radius regulations imposed on all private property owners.

CONCLUSIONS

1. Finding Number 18, as set forth above, is in error as the granting of this vacation will severely impair access, and eliminate parking, for approximately 40 tenants residing on the property.

2. Finding Number 23, as set forth above, is in error as Notice was not provided to the legal property owners of all property abutting the right-of-way requested for vacation pursuant to TMC 9.22.060 and hereby submit this Request for Reconsideration.

3. The southeast corner of the proposed vacation forms a "point of contact" with Lot 15, Block 1904, thereby creating, by definition, an abutment of said Lot 15, Block 1904 to the proposed vacation as shown in Exhibit "A" attached hereto and incorporated herein by this reference.

4. As an owner of property abutting a portion of the street(s) and/or alley(s) contained in the proposed vacation, and/or by the fact that access to owned property will be substantially and adversely affected by said vacation, I have the standing to challenge the vacation of a street right-of-way.

5. The subject of refuse collection, including pick up points, needs to be further addressed and a mutual agreement reached regarding relocation and/or reimbursement made for refuse facility.

6. Due to lack of adequate radius for fire truck turnaround, public safety becomes a major issue, and needs to be fully and completely addressed prior to any decision being made with regard to vacation proposed by the U.W.

Based on the above Findings and Conclusions, I am hereby respectfully requesting reconsideration with regard to the conclusions contained in the Office of the Hearing Examiner, City of Tacoma's Report and Recommendation to the City Council.

DATED this 29th day of September, 1995.



Grahame J. Fenton, Managing General Partner
McDONALD/SMITH GENERAL PARTNERSHIP
8313 Onyx Drive SW
Tacoma, WA 98498



City of Tacoma

Memorandum

Revised 10/25/14

To: Rodney M. Kerslake, Hearing Examiner
From: Bob Gower, Property/Right of Way Manager
Subject: Street Vacation No. 124.1020 - University of Washington
Date: October 25, 1995

In your reconsideration of the University of Washington Street Vacation, File No. 124.1020, please retain and include in your report all those Special Conditions, 6 A. through 6 O., found on pages 9, 10 and 11 of your report dated September 15, 1995.

Those conditions include, but are not limited to, street closures and signage, the upgrading of South 21st Street to arterial standards, revised traffic signalization, and the retention of easements for sanitary and storm sewers, Public Utilities light and water facilities, and the requirement to grant easements for private utilities located in the vacated rights of ways.

I would like to confirm Public Works intention to include in the Vacation Ordinance, the removal of South 19th Street from the City's Major Street Plan.

Thank you

A handwritten signature, possibly "B. Gower", enclosed in an oval.

ATTACHMENT "E"

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UNIVERSITY OF WASHINGTON

copy FAX
SENT 10-26-

CAPITAL PROJECTS OFFICE

October 25, 1995

Mr. Rod Kerslake
Hearing Examiner
747 Market Street, Room 720
Tacoma, WA 98402-3768

Re: Street Vacation, File No. 124.1020
Applicant: University of Washington
University Of Washington, Tacoma
Project No. 1752D

Dear Hearing Examiner:

This letter is in response to the requests for reconsideration regarding your report recommending approval of the street vacations sought by the University of Washington under File No. 124.1020.

The following addresses each item in the four letters submitted as requests for reconsideration:

Request for Reconsideration from Stephanie Arend:

Item No. 1 (Finding No. 5):

Merritt + Pardini argue that they are an abutting landowner and therefore have standing to object to the University's petition. They are mistaken. First, the "evidence" submitted by Merritt + Pardini was far from conclusive on the issue of ownership of the tiny triangle at the northern edge of the Commerce Street vacation, and the Examiner's finding in this regard was appropriate given the confusing state of the historical record. Second, as the Examiner correctly noted, the University did not object to Merritt + Pardini's standing to present evidence and make arguments regarding their position. Third, the ultimate disposition of the vacated portion of Commerce Street is not at issue in this hearing. Merritt + Pardini are free to pursue their ownership claim regarding the tiny triangle at issue in another forum. At issue here are the merits of the vacation petition, not ownership of the underlying fee.

Item No. 2 (Finding No. 9):

Merritt + Pardini suggests that the vacation of Commerce Street causes an unsafe condition. Their concern is that vehicles will use the Merritt + Pardini parking lot as a 'loop' road, which could threaten the safety of pedestrians in the parking lot. We understand this concern and are working with Mr. Merritt to address this situation, but must also stress that the vacation of Commerce Street is not the cause of this safety problem and in fact, will alleviate the problem if it currently exists. If there is a current safety problem, it would be improved by the following conditions:

- a. Based on our a May 1994 traffic count study, approximately 740 cars per day travel on Commerce Street between South 19th Street and South 17th Street. Once the street is vacated and closed, the traffic to the University is expected to be less than 200 vehicles per day. This reduction in vehicles using Commerce Street would also reduce the number of cars using the Merritt + Pardini parking lot as a loop road.

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ATTACHMENT "F"

- b. We will work with Mr. Merritt and the City to achieve a signage design for the corner of South 17th Street and Commerce to discourage the use of Commerce Street by motorists not visiting the University or the offices of Merritt + Pardini. Possible signage that would address this issue would be:

Local Access Only
Dead End Street
No Through Traffic, etc.

- c. A traffic turnaround will be installed by the University, per requirements of the City of Tacoma Public Works Department, and will be located on Commerce Street, just south of the Burlington Northern railroad tracks. Any vehicle who entering Commerce Street by mistake will be able to turn around.

- d. The following items could be incorporated at the Merritt + Pardini parking lot to further discourage use as a loop road:

- Install speed bumps.
- Revise entry to the parking lot by making it more narrow to emphasize that the driveway is a private parking lot.
- Install a gate at the parking lot entry.

We have agreed to consider costs with Merritt + Pardini for the above solutions.

Item No. 3 (Finding No. 15):

Merritt + Pardini argue that the traffic circulation pattern for access to their building will be "significantly and adversely affected" citing Jim Merritt's August 1, 1995 letter to the effect that the deflection in route is several blocks. Thus they argue that they are "uniquely situated and will suffer harm special and distinct from the general public." Their point is not well taken. First, what Mr. Merritt actually said in his letter was that customers who were traveling north on Pacific would, instead of turning left on 19th and right at Commerce, continue north on Pacific and turn left on 17th. The deflection is two blocks not "several", and the total distance is the same. This does not constitute a substantial impairment. *Mackie v. Seattle*, 19 Wn. App. 464, 469 (1978) [The fact that access is deflected a few blocks and will be inconvenient does not raise such inconvenience to the status of a special injury not suffered by the general public]; *Hoskins v. Kirkland*, 7 Wn. App. 957, 960-61 (1972) [If, however, the landowner still retains an alternate mode of egress from and ingress to his land, even if less convenient, generally speaking he is not deemed specifically damaged].

Item No. 4 (Finding No. 18):

Merritt + Pardini argue again that their access will be "substantially impaired." The deflection in traffic circulation of two blocks for northbound employees and customers does not rise to the level of "substantial impairment" as a matter of law. As a factual matter, Merritt + Pardini presented no other evidence that their access would be impaired in any other matter.

Item No. 5 (Conclusions No. 4 and No. 6B):

A turnaround will be provided on the vacated portion of Commerce Street. We will also work with the City and with Mr. Merritt to provide other devices to prevent unauthorized access into the campus.

In addition to the above, I would like to point out that the proposed street vacations and street closures were delineated in the Draft Supplemental Environmental Impact Statement (SEIS), issued December 12, 1994 and the Final SEIS, issued April 28, 1995. A public hearing on the Draft SEIS was also held on January 18, 1995. No comments were received from Mr. Merritt, Mr. Pardini or Ms. Arend in response to

these documents. For these reasons, we believe the concerns presented by Merritt + Pardini are not sufficient to result in a denial of the vacation petition.

Request for Reconsideration from Alexander McLaren:

Item No. 1 - Notice:

Mr. McLaren contends that the EIS indicates the proposed street vacation would occur in 1997 and that the proposed boundaries of the street vacation are different than those disclosed in the EIS. On page i, in the Final SEIS, issued in April 12, 1995, it states, "Proposed street closures in Phase I of the Tacoma Campus Master Plan would begin in 1995." Again, on page 1-4, the document says, "Two street closures would occur in 1995 with the Draft Master Plan (Alternative A)." Alternative A is described in Table A-2 as, "Nineteenth Street would be vacated between Pacific Avenue and Jefferson. Commerce Street would be vacated from 'C' Street to Hood Street." The timing and location of the street closures are clearly stated in the Final Environmental Impact Statement. McLaren's claim that the University "drafted boundaries different from those previously disclosed in the EIS" is incorrect.

McLaren also asserts that the university has "gerrymandered the proposed vacation boundaries to avoid abutting property owners who might offer potential opposition." In Appendix A of the Draft SEIS (page A-4), it states, "...Phase I street vacations (South 19th Street between Pacific and Jefferson Avenues and Commerce Street from C Street to the railroad tracks) would abut only University property." It has always been the University's intention to vacate streets only within property that is owned by the University.

Item No. 2 - Substantive Concerns:

Mr. McLaren states that the application to vacate streets is premature. We disagree. The street closure is required for construction of the new campus. As part of the Phase 1a construction, a new utilidor will be installed across 19th Street, between the existing buildings on each side of 19th. The existing back wall of the areaway below the loading docks along the buildings on Commerce Street will be demolished and rebuilt. Extensive utility work, grading, drainage, paving, landscaping will also be installed along Commerce Street. If the streets were not vacated, closure would still be required for this work via a street use permit.

The proposed street vacations make possible the creation of a network of high quality open spaces and pedestrian connections designed for academic and public relaxation and enjoyment. We feel it is important to establish the pedestrian core in the early stages of the campus. There will be approximately 1,230 students attending the campus between the hours of 9 am and 9 pm. The safety and security of these students is of the utmost importance in the design of the campus. All open areas will be accessible and usable by the public. Eliminating vehicular traffic on these streets is a requirement for the safety and security of the students, faculty, staff and public.

Mr. McLaren states the proposed street vacation drastically affects access to his property. He is under the assumption that both C Street and Commerce Street will be dead-end streets as a part of the proposed street vacation. This is not correct. C Street and Commerce Street will be linked, as shown in the Master Plan and the EIS documents. Vehicles traveling north on Commerce from 21st Street will be able to turn onto C Street and out to 21st Street. Similarly, vehicles traveling north on C Street from 21st Street will be able to turn onto Commerce Street and on to 21st Street. This link between Commerce and C Streets has been a commitment by the University, as shown per the EIS documents and on the permit documents, which are currently being reviewed by the City. Thus McLaren's property will not be landlocked. On the

contrary, the property will be surrounded by public streets on all three sides of the triangular lot. Mr. McLaren's access will not, therefore, be substantially affected within the meaning of the law.

Item No. 3 - Conclusion:

Notice of the hearing for the proposed street vacation petition was in accordance with applicable legal requirements, as concluded by the Assistant City Attorney.

We disagree with Mr. McLaren that his property will be deleteriously affected due to the proposed street vacation. Since the University's decision to select this site for its campus, property values in the area have risen. The Pierce County Tax Assessor's value of the property located in the site's 46 acre boundary was assessed at \$10.6 million in 1989, prior to any acquisition by the university. The same area was valued at \$13.6 million in 1994. It is clear that since the University's decision to locate the campus in the area, the property values within the campus boundaries and adjacent to the campus have risen. Since Mr. McLaren is not an abutter, nor is his access substantially affected, he lacks standing to challenge this petition.

Request For Reconsideration From Fred Roberson:

Mr. Roberson has not presented any substantive argument for not permitting the proposed street vacations. He states that the University is unlikely to provide a vehicular connection from Commerce Street to C Street, but in fact, we have committed to this solution. Mr. Roberson, a successful developer, purchased the Harmon building in 1994. Information regarding the University's plan for this area was available to him prior to his purchase.

Request For Reconsideration From Graham Fenton:

Item No. 1-7. Findings:

Mr. Fenton argues that he is an "abutter" because the southeast corner of the proposed vacation of Commerce Street forms a "point of contact" with Lot 15, Block 1904. Mr. Fenton is not thereby an abutter. A property owner must abut "directly" upon the portion of the street being vacated. State v. Winberg, 74 Wn. 2d 372, 375 (1968). Property is said to abut a street when there is no intervening land between it and the street, and when the lot line and the street line are in common. Kemp v. Seattle, 149 Wash. 197, 201 (1928) [citing cases]. Also, abutters are generally entitled upon the vacation of a street to regain title to the center of the vacated street. RCW 35.79.040. Here, Mr. Fenton's property does not abut directly; at all points (except some theoretical molecule) there is either private property or unvacated street between his property and the vacated portion of Commerce Street; there is no lot line and street line in common; and Mr. Fenton is not in any legal or geographic position to take title to the middle of any portion of vacated Commerce Street. Mr. Fenton may adjoin the portion of Commerce proposed for vacation but he does not abut it.

Item No. 8. Findings:

Mr. Fenton states that an area that he currently uses to store refuse containers for his property located at 1933 Commerce Street is within the area designated for the connection between Commerce Street and C Street. This is not correct. The existing location of his refuse containers is south of the street connection. The University has no objection to Mr. Fenton's use of this area for refuse containers.

Item No. 9. Findings:

Mr. Fenton states that the proposed connection between C Street and Commerce Street will not allow fire truck access. This is incorrect. All public works requirements to assure fire truck access have been

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provided. The loop connection between Commerce Street and C Street is designed to provide clearance for all WSDOT WB50 design vehicles. This provides access not only for fire trucks, but also for 55' semi-trucks.

Item No. 1. Conclusions:

Mr. Fenton states that the granting of the proposed vacation will severely impair access and eliminate parking for approximately 40 tenants, residing at 1933 Commerce Street. Access will not be impaired, due to the vehicular connection that we are providing from Commerce Street to C Street. The street parking for Mr. Fenton's tenants will not be eliminated. We will work with Mr. Fenton to identify alternate methods to further secure parking.

Item No. 2-4. Conclusions:

As a matter of both law and fact, Mr. Fenton is neither an abutter nor has his access been substantially impaired, for the reasons set forth above. Thus, he was not entitled to notice (as the City Attorney so advised) nor does he now have standing to object to this petition.

Item No. 5. Conclusions:

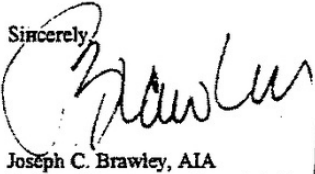
The area of the refuse containers will not be affected by the proposed street vacation.

Item No. 6. Conclusions:

The loop connection between Commerce Street and C Street does allow for fire truck access. The University's plan meets or exceeds all public works requirements.

In conclusion, I would like to state that the University is most sincere in our desires to be a good neighbor to the existing property owners. We appreciate the concerns raised by the University's neighbors in regard to its petition for street vacation. We believe we have answered those concerns and are committed to continued dialogue and careful planning to address any concerns which may arise in the future.

Sincerely,



Joseph C. Brawley, AIA
Projects Director for Central & Branch Campuses

cc: Sharon Coleman
Mark Green
Neal Lessenger

OFFICE OF THE HEARING EXAMINER

CITY OF TACOMA

REPORT AND RECOMMENDATION TO THE CITY COUNCIL

PETITIONER: University of Washington

FILE NO: 124.1020

SUMMARY OF REQUEST:

A petition to vacate portions of South 19th Street and adjacent streets lying between Pacific and Jefferson Avenue.

RECOMMENDATION OF THE HEARING EXAMINER:

The request is hereby recommended for approval, subject to conditions, except that South 19th between Jefferson Street and Pacific Avenue should not be vacated unless and until the City's Major Street Plan is amended to delete that portion of South 19th Street therefrom.

PUBLIC HEARING:

After reviewing the report of the Department of Public Works, examining available information on file with the application, and visiting the subject site and the surrounding area, the Hearing Examiner conducted a public hearing on the application on July 25, 1995. The record was left open until August 1, 1995.

I CERTIFY THAT I HAVE MADE A COPY OF THIS DOCUMENT
TO THE PERSONS AND AGENCIES LISTED THEREON.
POSTAGE PREPAID IN A QUANTITY FOR UNITED
STATES MAIL AT TACOMA, WASHINGTON
ON 9-15-95

C. Knutson

67

PROCEDURAL BACKGROUND:

1. On July 25, 1995, a hearing was conducted before the Hearing Examiner on a petition presented by the University of Washington (hereinafter "UW") to vacate certain streets in the vicinity of its Tacoma campus.

2. At the conclusion on the hearing conducted on July 25, 1995, the hearing record was left open until August 1, 1995, to allow the UW and an adjacent property owner (Merritt + Pardini Architects) an opportunity to attempt to resolve certain issues raised at hearing relative to the vacation of Commerce Street in the vicinity of South 17th Street.

3. Subsequent to July 25, 1995, in regard to the UW's vacation petition, several property owners in the vicinity of the streets proposed to be vacated by the UW filed letters objecting to, or raising concerns with, the UW's petition and contending that notice of the July 25, 1995, hearing was not proper. (See Letters from Alexander McLaren, Fred Roberson, and Graham J. Fenton on behalf of McDonald/Smith, General Partnership, Exhibits 18 through 20, inclusive.)

4. The Hearing Examiner asked the City Attorney to investigate the matter and to determine whether the notice of hearing met the legal requirements for the same. Parties were also given an opportunity to comment.

5. The City Attorney responded on September 5, 1995, concluding that the notice of hearing in regard to the UW's vacation petition was in accordance with applicable legal requirements for the same. (See Interdepartmental Communication from Kyle J. Crews, Assistant City Attorney, to Rod Kerslake, Hearing Examiner, appended hereto as Exhibit 22.) Also responding on behalf of the UW was the Attorney General of Washington through Mark S. Green, Assistant Attorney General. (See Exhibit 21.) The Attorney General contends that the notice of hearing was proper.

6. Due to the question of the adequacy of notice and, thus, the Hearing Examiner's jurisdiction to consider the vacation petition, the Examiner could not act on the vacation petition within the usual 30 day period following the conclusion of the hearing.

FINDINGS, CONCLUSIONS, AND RECOMMENDATION:

FINDINGS:

1. The UW has filed a petition seeking a vacation of the following streets:

South 19th Street from the easterly margin of Jefferson Avenue to the westerly margin of Pacific Avenue; together with that portion of Lot 22, Block 1806 conveyed to the City of Tacoma under Pierce County Auditor's Fee No. 2473363;

Hood Street extending from the line between Lots 1 and 2, Block 1804, as extended westerly to the easterly margin of Block 1806, to the northerly margin of South 19th Street, and from the southerly margin of South 19th Street to the northerly margin of South 21st Street;

Commerce Street extending from the line between Lots 1 and 2, Block 1804, as extended westerly to the easterly margin of Block 1806, to the northerly margin of South 19th Street, and from the southerly margin of South 19th Street to the line between Lots 14 and 15, Block 1904, as extended westerly to the easterly margin of Block 1905;

South "C" Street extending from the southerly margin of South 19th Street to the line between Lots 14 and 15, Block 1904, as extended westerly to the easterly margin of Block 1905;

EXCEPT easements and right-of-way of record granted to others.

At hearing the UW amended its vacation petition to the extent of deleting Hood Street from its vacation proposal.

2. The street vacations requested by the UW are for the purpose of consolidating its properties within the Phase I development of the UW's Tacoma campus and to facilitate construction within the proposed Phase I development.

The overall Tacoma campus is to occupy a 46 acre site generally bounded by Pacific Avenue on the east, Tacoma Avenue on the west, South 17th Street on the north, and South 21st Street on the south.

The Phase I portion of the overall campus development is to occur on several properties situated on the easterly portion of the 46 acre campus and abutting the rights-of-way sought to be vacated in this proceeding.

3. The street rights-of-way requested to be vacated will initially be used by the UW for the staging of equipment and materials to be used in the construction of the Phase

I campus development. After construction is completed, the vacated areas will, principally, be used for open spaces, permitting pedestrian and bicycle movement within the campus.

4. The rights-of-way proposed for vacation were dedicated to the City of Tacoma in the late 1800's, when various plats in the area were recorded.

5. The Department of Public Works (hereinafter "DPW") has represented that the vacation petition presented by the UW represents a joinder by 100 percent of the owners of property abutting upon the street rights-of-way proposed for vacation. Merritt+Pardini Architects own property, which is occupied by their architectural offices south of South 17th Street and between Commerce Street and Pacific Avenue. Merritt+Pardini contend that their property abuts a portion of Commerce Street sought to be vacated by the UW. Insufficient information has been placed into evidence which would permit the Examiner to enter a finding in this regard. However, the UW and DPW have not objected to Merritt+Pardini's standing in this proceeding to present evidence and argument relative to the street vacations requested.

6. South 19th, South "C," and Commerce Streets are developed streets. South "C" and Commerce Streets are local access streets, providing access to abutting properties. South 19th Street is an arterial street and is so designated on the City's Major Street Plan. Within portions of Commerce and South 19th Streets proposed to be vacated, Burlington Northern Railroad has railroad trackage and crossings.

7. The vacation petition presented has been reviewed by nine governmental agencies and utility providers. None of these reviewing entities have objected to the vacation request; however, numerous conditions have been recommended.

The Tacoma Fire Department advises that the UW must maintain Fire Department vehicle access and fire hydrants throughout the site.

The Department of Public Utilities indicates that the Light Division will need to retain an easement on Commerce Street and Hood Street, where it crosses Commerce Street. The Water Division notes that easements must be granted over the proposed vacation area within "C" Street, Commerce Street and South 19th Street, to accommodate existing Water Division mains, appurtenances, services and meters, and that these easements may be changed and additional easements may be required in conjunction with Water Division facilities.

US West Communication responds that easements will be required for its existing telephone plant, as there are extensive telephone facilities throughout the area and the costs of relocation of any US West Communication facilities must be borne by the requesting party.

The DPW recommends numerous conditions relative to retention of easements for existing utilities; provisions for street lighting; replacement of existing street returns with driveway, sidewalk, concrete curb and gutter; construction of a connection

between Commerce and "C" Streets, or a suitable turnaround at the end of each street; improvements to South 21 Street and Jefferson Avenue; provisions for storm drainage; installation, at the UW's expense, of new street signs or aesthetic barricades necessitated by the street closures; and retention of easements for public access over the streets to be vacated, until such time as the UW closes the same to vehicular and pedestrian traffic.

The DPW further advises that it has studied in detail the re-routing of South 19th Street traffic to South 21st Street, in the vicinity of the UW's campus, and concludes that the re-routing of traffic from South 19th Street to South 21st Street will provide improved access, since an interchange to the I-705 Freeway and SR-509 will be constructed in the vicinity of South 21st Street.

8. The Burlington Northern Railroad appeared at hearing expressing concerns relative to maintaining existing railroad crossings at Commerce and Hood Streets and South 19th and Hood Streets.

9. Merritt+Pardini appeared and testified to and submitted documentary evidence regarding its concerns with the vacation of that portion of Commerce Street adjacent to its property. More correctly, Merritt+Pardini contends that Commerce Street should be vacated up to South 17th Street, rather than at the more southerly location proposed by the UW. The reasons presented by Merritt+Pardini in support of its position are as follows:

- A. It would eliminate the dead-end street condition, which would result from the vacation proposal presented by the UW.
- B. The current situation of numerous intersections conjoining at South 17th Street in the vicinity of Commerce Street would be improved by the elimination of the south leg of Commerce Street.
- C. The potential for the use of Merritt+Pardini's parking area access as a loop out route from the dead end Commerce Street would be eliminated.

10. Also, appearing at hearing was a citizen who raised numerous objections and concerns, principally relating to the campus location and its effect on the community.

11. In response to the concerns and objections presented at hearing, the UW responds as follows:

- A. The UW will work with the Burlington Northern Railroad to provide the necessary agreements in order to allow the railroad crossings at South 19th and Commerce Streets to remain.
- B. It is willing to work with Merritt+Pardini on design solutions which would address Merritt+Pardini's concerns in regard to the

dead end portion of Commerce Street adjacent to the Merritt+Pardini site.

Further, the UW indicates that it is in agreement with requirements recommended by reviewing departments and agencies and will abide by the same with the exception of Condition 4-a (See Exhibit 1 at 5), which the UW wishes to modify to the extent that it would work with the City in regard to specific designs for the improvements required by the referred-to condition, and Condition 9, to the extent that it would like to have use of the vacated rights-of-way when needed for construction purposes.

12. The hearing record was left open until August 1, 1995, to allow the UW and Merritt+Pardini to meet and discuss Merritt+Pardini's concerns regarding the disposition of that portion of Commerce Street adjacent to its site and determine if a mutually acceptable solution could be found.

Both the UW and Merritt+Pardini advise that no agreement has been reached between them in regard to the concerns presented by Merritt+Pardini at hearing. See Exhibits 15 and 16.

13. In order to be granted, a petition to vacate street right-of-way must be found to be consistent with the following criteria:

1. The vacation will provide a public benefit, and/or will be for public purpose.
2. That the right-of-way vacation shall not adversely affect the street pattern or circulation of the immediate area or the community as a whole.
3. That the public need shall not be adversely affected.
4. That the right-of-way is not contemplated or needed for future public use.
5. That no abutting owner becomes land-locked or his access will not be substantially impaired; i.e., there must be an alternative mode of ingress and egress, even if less convenient.
6. That the vacation of right-of-way shall not be in violation of RCW 35.79.035.

Tacoma Municipal Code (hereinafter TMC) 9.22.070

14. Considering that public education is a paramount duty of the State of Washington and that the development of the Tacoma campus of the UW is in accordance with statutory direction of the State Legislature, the Examiner finds that the vacation of

the portions of South 19th, Commerce, and South "C" Streets, which will allow and facilitate development of Phase I of the UW's Tacoma campus, to be in the public interest.

15. Provided conditions are imposed as recommended, including those providing for the re-routing of traffic from South 19th Street to South 21st Street, the right-of-way vacation will not adversely affect the street pattern or circulation in the immediate area or the community as a whole.

16. Likewise, if conditions are imposed, as recommended, providing for the maintenance or relocation of utilities, the public need will not be adversely affected by the vacation of the subject streets.

17. As the right-of-way proposed to be vacated is within the area designated for the UW Tacoma campus, the rights-of-way are not needed for future public use.

18. No abutting property owners will be landlocked or have their access substantially impaired as a result of the vacations proposed.

19. The rights-of-way in question do not abut, nor are they in proximity to, bodies of water; thus, provisions of RCW 35.79.035 are not applicable.

20. The UW is seeking waiver of the "one-half appraised value charge," which is authorized by the following statutory provision:

The owners of an interest in any real estate abutting on any street or alley who may desire to vacate any street or alley, or any part thereof, shall petition to the City Council to make vacation in the manner hereafter provided in this chapter and pursuant to Chapter 35.79 RCW, or the City Council may itself initiate by resolution such vacation procedure. The City Council shall require the petitioners to compensate the City of Tacoma in an amount which equals one-half of the appraised value of the area vacated, provided that when the vacation is initiated by the City of Tacoma or the City Council deems it to be in the best interest of the City of Tacoma, all or any portion of such compensation may be waived. The sums received hereunder shall be devoted to the acquisition, improvement, and maintenance of public open space land within the City of Tacoma as approved by the City Council upon recommendation of the Director of Planning.

TMC 9.22.010.

The UW contends that, since the vacated rights-of-way will be incorporated into its campus and will be used, principally, for open space and pedestrian/bicycle access, it qualifies for waiver of the foregoing charge. No opposition to the waiver request was presented at hearing.

21. Pursuant to the State's SEPA Rules (WAC 197-11) and the City of Tacoma's (City) Environmental Code, the UW, acting as lead governmental agency for the project, has issued a Environmental Impact Statement and a Supplemental Environmental Impact Statement for the proposed campus development. The Examiner finds those documents to be appropriate for use in this proceeding and to comply with the requirements of RCW 43.21C.

22. The DPW Preliminary Report, as entered into this record as Exhibit 1, accurately describes the proposed project, general and specific facts about the site and area, and applicable codes. The report is incorporated herein by reference as though fully set forth.

23. Notice of hearing was given in accordance with applicable legal requirements. All property owners of record and adjacent to the proposed vacation have been notified of the hearing date at least 30 days prior to the hearing, as required by TMC 9.22.060.

24. Any conclusion hereinafter stated which may be deemed to be a finding herein is hereby adopted as such.

CONCLUSIONS:

1. The Hearing Examiner has jurisdiction over the parties and subject matter in this proceeding. See TMC 1.23.070.4¹ and 9.22.

2. Requests for vacation of public street rights-of-way are reviewed for consistency with criteria set forth at TMC 9.22.070. See Finding 13.

3. In order to have standing to challenge the vacation of a street right-of-way, one must own property abutting the portion of the street or alley vacated, or have their access substantially affected. See *London v. Seattle*, 93 Wn.2d 657, 611 P.2d 781 (1980); *Capitol Hill Methodist Church v. Seattle*, 52 Wn.2d 359, 324 P.2d 1113 (1958); and *Taft v. Washington Mutual Savings Bank*, 127 Wash. 503, 221 Pac. 604 (1923). A slight inconvenience to travelers, i.e., the deflection in route of one block, does not constitute a substantial impairment of access. See *State v. Wineburg*, 74 Wn.2d 372, 444 P.2d 787 (1968); *Capitol Hill Methodist Church v. Seattle*, *supra*; and *Banchero v. City Council*, 2 Wn. App. 519, 524, 468 P.2d 724 (1970). Thus, those interested persons who do not own property abutting the streets petitioned to be vacated by the UW, or whose property would become landlocked by the vacations, but who may only be inconvenienced in terms of access to their property, do not have standing to maintain an action against vacation of the streets.

4. In regard to issues presented by Merritt+Pardini, the Examiner concludes that his only role in these proceedings is to determine whether the street vacation petition presented conforms to applicable criteria, not whether a different vacation proposal might

¹As amended by Substitute Ordinance No. 25696, adopted April 25, 1995.

constitute an improvement to the one presented. The Examiner is not persuaded that the issues presented by Merritt+Pardini are sufficient to result in a denial of the UW's vacation petition. However, to ensure that the public need will not be adversely affected, the UW should be required to properly sign Commerce Street at South 17th Street, indicating that it is not a through street, and provide barricades, gating, bollards or other devices, constructed at the end of the remaining portion of Commerce Street, to prevent unauthorized access into the campus via the vacated portion of Commerce Street. Further, the UW is encouraged to work with Merritt+Pardini on additional design measures, which may be appropriate to alleviate potential traffic problems along the remaining portion of Commerce Street. However, nothing herein should be construed to prevent the property owners from, in the future, seeking vacation of Commerce Street up to South 17th Street.

5. The UW should also make appropriate arrangements with the Burlington Northern Railroad for maintenance of the existing railroad crossings at Hood and Commerce Streets and at Hood and South 19th Streets, until a final disposition of the rail line is determined.

6. Based on substantial evidence in the record, the Hearing Examiner concludes that the vacation petition presented by the UW, if properly conditioned, conforms to applicable criteria for the granting of the same. Accordingly, the vacation petition should be granted subject to the following conditions:

SPECIAL CONDITIONS:

- A. The UW shall provide signage, as approved by the City's Traffic Engineer, at South 17th and Commerce Streets, advising motorists that Commerce Street is not a through street.
- B. The UW shall provide, at the south end of the remaining portion of Commerce Street, south of South 17th Street, barricades, bollards, a gate or similar devices to prevent unauthorized access into the campus at the terminus of Commerce Street. Such measure shall be subject to the approval of the City's Traffic Engineer.
- C. The UW shall make appropriate arrangements with the Burlington Northern Railroad for maintenance of its existing railroad crossings of Commerce Street at Hood Street and South 19th Street at Hood Street until a final disposition of this rail line is determined.
- D. Easements shall be retained by the City of Tacoma for existing storm and sanitary sewers.

- E. The UW shall coordinate with the DPW and the Department of Public Utilities regarding whether existing street lighting will remain or be removed. Any removal and/or relocation will be at the sole expense of the UW.
- F. Easements shall be granted to US West Communications for existing telephone facilities. Any relocation costs will be borne by the UW.
- G. Existing street returns shall be removed and replaced with cement concrete curb, gutter and sidewalk with storm drainage adjustments and Type "F" driveways, if required, at the following locations:
1. The north leg of the intersection of the South 21st and Hood Streets;
 2. South 19th Street at Pacific Avenue; and
 3. The design and construction requirements for any street return replacement at South 19th Street and Jefferson Avenue shall be determined by the Traffic Engineer after consultation with the UW.
- H. A through connection shall be constructed between Commerce and "C" Streets; or a suitable turnaround provided at the end of each street.
- I. South 21st Street shall be upgraded to arterial street design standards, which shall include asphalt concrete pavement overlay, railroad crossing upgrade, signalization improvements, and correction of the vertical alignment. Sidewalks and curb ramps shall also be approved to meet ADA standards. The design of all required improvements shall meet the approval of the City Engineer. Further, Jefferson Avenue shall require modifications to the signal systems at South 19th and South 21st Street intersections, to accommodate the revised traffic flow. Sidewalks and curb ramps shall be improved to meet ADA standards. All construction shall be done under engineering work order to the approval of the City Engineer and at the sole expense of the UW.
- J. All storm drainage shall be collected on site and conveyed to the City storm system in a manner approved by the City Engineer.

- K. Any new street signs or aesthetic barricades necessitated by the street closures will be installed at the UW's expense.
- L. If any or all of the rights-of-way subject to vacation are to remain in public use after vacation, an easement for street purposes needs to be granted by the UW and held by the DPW until such time as the rights-of-way are closed to public vehicular and pedestrian use.
- M. Tacoma Public Utilities Light and Water Divisions:
1. The Light Division will need to retain easement on Commerce and Hood Streets, where it crosses Commerce Street.
 2. Easements must be granted to the Water Division over the proposed vacation area within Commerce, South 19th and "C" Streets to accommodate existing Water Division mains, appurtenances, services and meters. These easements may be changed and additional easements may be required in conjunction with Water Division facilities.
- N. Fire Department:
- The UW shall maintain Fire Department vehicle access and fire hydrants throughout the site.
- O. US West Communications:
- Easements shall be required for the existing telephone plant, as there are extensive telephone facilities throughout the area. Costs of relocation will be borne by the UW.

USUAL CONDITIONS:

- A. THE DECISION(S) SET FORTH HEREIN IS/ARE BASED UPON REPRESENTATIONS MADE AND EXHIBITS, INCLUDING DEVELOPMENT PLANS AND PROPOSALS, SUBMITTED AT THE HEARING CONDUCTED BY THE HEARING EXAMINER. ANY SUBSTANTIAL CHANGE(S) OR DEVIATION(S) IN SUCH DEVELOPMENT PLANS, PROPOSALS, OR CONDITIONS OF APPROVAL IMPOSED SHALL BE SUBJECT TO THE APPROVAL OF THE HEARING

EXAMINER AND MAY REQUIRE FURTHER AND ADDITIONAL HEARINGS.

- B. THE AUTHORIZATION(S) GRANTED HEREIN IS/ARE SUBJECT TO ALL APPLICABLE FEDERAL, STATE, AND LOCAL LAWS, REGULATIONS, AND ORDINANCES. COMPLIANCE WITH SUCH LAWS, REGULATIONS, AND ORDINANCES ARE CONDITIONS PRECEDENT TO THE APPROVALS GRANTED AND ARE CONTINUING REQUIREMENTS OF SUCH APPROVALS. BY ACCEPTING THIS/THESE APPROVALS, THE APPLICANT REPRESENTS THAT THE DEVELOPMENTS AND ACTIVITIES ALLOWED WILL COMPLY WITH SUCH LAWS, REGULATIONS, AND ORDINANCES. IF, DURING THE TERM OF THE APPROVALS GRANTED, THE DEVELOPMENTS AND ACTIVITIES PERMITTED DO NOT COMPLY WITH SUCH LAWS, REGULATIONS, OR ORDINANCES, THE APPLICANT AGREES TO PROMPTLY BRING SUCH DEVELOPMENTS OR ACTIVITIES INTO COMPLIANCE.

7. Furthermore, the UW's request to waive the "one-half appraised value charge" is found to be consistent with the requirements of TMC 9.22.010, and, therefore, should be granted.

8. In regard to the vacation of South 19th Street between Jefferson Street and Pacific Avenue, the Examiner concludes that the same may not be authorized unless and until the City's Major Street Plan is amended to delete that portion of said street, which is an arterial street depicted on such plan.

TMC 9.22.040 provides as follow:

Vacation of any portion of portions of a street indicated on the City of Tacoma's Major Street Plan shall be of a minor nature only, and shall not unreasonably limit the public's right to travel upon said street or interfere with the ancillary right to occupy said street for utility purposes.

The foregoing bars the vacation of South 19th Street so long as it remains a major street identified in the City's Major Street Plan.

9. Any finding herein which may be deemed to be a conclusion is hereby adopted as such.

RECOMMENDATION:

The vacation petition, as amended at hearing, should be granted subject to the conditions set forth in Conclusion 6 herein, except that South 19th between Jefferson Street and Pacific Avenue should not be vacated unless and until the City's Major Street Plan is amended to delete that portion of South 19th Street therefrom. It is further recommended that, pursuant to *TMC* 9.22.010, the "one-half appraised value charge" for the street rights-of-way proposed to be vacated herein be waived.

DATED this 15th day of September, 1995.


RODNEY M. KERSLAKE, Hearing Examiner

TRANSMITTED this 15th day of September, 1995, via certified mail to the following:

Joseph C. Brawley, AIA, Projects Director for Central and Branch Campuses,
Capital Projects Office, University Facilities, Box 352205, Seattle, WA
98095-2205

TRANSMITTED this 15th day of September, 1995, via certified mail to the following:

Attorney General of Washington, Attention: Mark S. Green, Assistant Attorney
General, University of Washington Division, 101 Administration, AF-50,
University of Washington, Seattle, WA 98195
Stephanie A. Arend, Attorney at Law, P. O. Box 1157, Tacoma, WA 98401-1157
Larry Leggett, Attorney at Law, 110 110th Avenue N.E., Suite 607, Bellevue, WA
98004
George See, 1032 S. 72nd Street, Tacoma, WA 98404
Alexander McLaren, 1953 South "C" Street, Tacoma, WA 98402
Fred Roberson, Roberson Building Company, 10828 Gravelly Lake Dr. S.W.,
Suite 204, Tacoma, WA 98499
Graham J. Fenton, B.D.F. Tacoma, General Managing Partner, McDonald/Smith
General Partnership, 8313 Onyx Drive S.W., Tacoma, WA 98498
Victor Brower, 45 Broadway South, Apt. 6, Tacoma, WA 98402
Burlington Northern Railroad, Attention: Steve H. Myhr, Manager Property
Management, 999 Third Avenue, Room 2100, Seattle, WA 98104-4080
US West Communications, Attention Mike Spivey, Engineer, 7850 S. Trafton,
Bldg. "B," Tacoma, WA 98402-5842

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City Clerk, City of Tacoma
Department of Public Works, City of Tacoma (BLUS-LUA/Henderson)
Department of Public Works, City of Tacoma (Engineering/Gower)
Planning and Development Services, City of Tacoma (M. Smith)
Tacoma Public Utilities, City of Tacoma (Prop. Mgmt./Denard)
Fire Department, City of Tacoma (Anderson)

NOTICE

Pursuant to the Official Code of the City of Tacoma, RCW 1.23.120 and 1.23.130, a request for RECONSIDERATION (by filing the same with the Hearing Examiner) or, alternatively, a request for APPEAL to the City Council (by filing the same with the City Clerk) of the Hearing Examiner's decision and/or recommendation in this matter must be filed in writing on or before September 29, 1995.

NOTICE

RECONSIDERATION AND APPEAL OF EXAMINER'S DECISION

RECONSIDERATION:

Any aggrieved person having standing under the ordinance governing such application and feeling that the decision of the Examiner is based on errors of procedure, fact or law may make a written request for review by the Examiner within fourteen (14) days of the issuance of the Examiner's recommendation. This request shall set forth the alleged errors, and the Examiner may, after review of the record, take such further action as he deems proper and may render a revised decision. (*Tacoma Municipal Code 1.23.120*)

APPEALS TO CITY COUNCIL OF EXAMINER'S DECISION OR RECOMMENDATION:

Within fourteen (14) days of the issuance of the Examiner's decision or recommendation involving an application or appeal filed pursuant to the provisions of this chapter, any aggrieved person having standing under the ordinance governing such application and feeling that the decision of the Examiner is based on errors of procedure, fact or law shall have the right to appeal the recommendation of the Hearings Examiner by filing written notice of appeal in duplicate with the City Clerk, stating the reasons the Hearing Examiner's decision or recommendation was in error; provided, however, that in the event application is made pursuant to Section 1.23.120 of this title for reconsideration by the Examiner, the appellant shall have seven (7) days from the date of issuance of the Examiner's decision on the reconsideration to appeal the Examiner's decision to the City Council. Appeals shall be reviewed and acted upon by the City Council in accordance with *Tacoma Municipal Code 1.23.130*.

NOTE: YOUR ATTENTION IS DIRECTED TO THE LAST PARAGRAPH OF THE ATTACHED EXAMINER'S REPORT where you will find specific dates for filing a request.

COUNCIL REVIEW:

In reviewing a decision, all parties of record may submit memoranda in support of their positions, but no additional hearings shall be held and no new evidence or testimony shall be taken by the City Council. The City Council shall accept, modify or reject any findings and conclusions, or remand the decision to the Examiner for further hearing; provided that any decision of the City Council shall be based on the record of the hearing conducted by the Examiner; however, the Council may publicly request additional information of the appellant and the Examiner at its discretion. (*Tacoma Municipal Code 1.23.130*)

GENERAL PROCEDURES FOR APPEAL:

The Official Code of the City of Tacoma contains certain procedures for appeal, and while not listing all of these procedures here, you should be aware of the following items which are essential to your appeal. Any answers to questions on the proper procedure for appeal may be found in the City Code sections heretofore cited:

1. The cost of transcription of the hearing record shall be borne by the party or parties requesting such transcript. Therefore, if a verbatim transcript is required, said parties should make such request for the transcript directly to the Hearing Examiner.
2. The written application of appeal shall also state where the Examiner's conclusions or findings were in error.

Notice - No Fee

7/24/95

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CITY OF TACOMA

INTERDEPARTMENTAL COMMUNICATION

TO: Rod Kerslake, Hearing Examiner

FROM: Kyle J. Crews, Assistant City Attorney

RE: University of Washington Street Vacation No. 124.1020
Notification

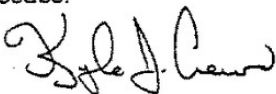
DATE: September 5, 1995

Notifications for vacations are governed by Tacoma Municipal Code Section 9.22.060, which states, in part:

...notice to be given of the pendency of the petition by a written notice posted in three of the most public places in the City, a like notice in a conspicuous place on the street or alley sought to be vacated, a like notice in a newspaper of general circulation in the City of Tacoma, and a like notice to the legal property owners of all property abutting the right-of-way requested for vacation as enumerated on the applicant's vacation petition, and to any other interested parties of record.

The above-stated notice requirements are quite restrictive compared to those of other land-use applications, i.e., variances, special use permits, reclassifications. It is our understanding that the University of Washington seeks to vacate the northern portion of Commerce and "C" Streets between 19th and 21st. It is also our understanding that those persons suggesting that notification was inadequate are not among "owners of all property abutting the right-of-way requested for vacation." Neither were these persons "parties of record" at the time notification was originally sent. The technical letter of the law was met by: the notice going only to "true" property abutters; the posting of the site; and the notification of the proposed vacation being printed in a newspaper of general circulation in the City of Tacoma.

It is, therefore, our opinion that adequate notice of this vacation was met by the Public Works Department and that the hearing on the vacation may have proceeded to the substantive issues.



KYLE J. CREWS
Assistant City Attorney

KJC:mew
cc: Bob Gower

C

PRELIMINARY REPORT

HEARING EXAMINER HEARING

Tuesday, July 25, 1995, 9:00 a.m.

APPLICANT: University of Washington

FILE NO. 124.1020

A. SUMMARY OF REQUEST:

The Department of Public Works has received a petition to vacate portions of South 19th Street and adjacent streets lying between Pacific and Jefferson Avenue, as shown on the attached maps.

B. GENERAL INFORMATION:

1. Legal Description of Vacation:

Those portions of any or all of these plats situate in the City of Tacoma, State of Washington:

THE TACOMA LAND COMPANY'S FOURTH ADDITION TO TACOMA, W.T., according to the plat thereof recorded in Volume 3 of Plats at page 60, records of Pierce County, Washington;

JEFFERSON STREET ADDITION TO TACOMA, W.T., according to the plat recorded in Volume 1 of Plats at page 105, records of Pierce County, Washington;

MAP OF NEW TACOMA, WASHINGTON TERRITORY, according to the map thereof filed for record February 3, 1875, in the office of the County Auditor of Pierce County, Washington;

described as follows:

South 19th Street from the easterly margin of Jefferson Avenue to the westerly margin of Pacific Avenue; together with that portion of Lot 22, Block 1806, conveyed to the City of Tacoma under Pierce County Auditor's Fee No. 2473363;

Hood Street extending from the line between Lots 1 and 2, Block 1804, as extended westerly to the easterly margin of Block 1806, to the northerly margin of South 19th Street, and from the southerly margin of South 19th Street to the northerly margin of South 21st Street;

Commerce Street extending from the line between Lots 1 and 2, Block 1804, as extended westerly to the easterly margin of Block 1806, to the northerly margin of South 19th Street, and from the southerly margin of South 19th Street to the line between Lots 14 and 15, Block 1904, as extended westerly to the easterly margin of Block 1905;

South 'C' Street extending from the southerly margin of South 19th Street to the line between Lots 14 and 15, Block 1904, as extended westerly to the easterly margin of Block 1905;

EXCEPT easements and rights of way of record granted to others.

2. Notification:

All property owners of record and adjacent to the proposed vacation have been notified of the hearing date at least 30 days prior to the hearing as required by Section 9.22.060 of the Official Code of the City of Tacoma.

C. PURPOSE OF REQUEST:

The applicant proposes to facilitate development of the University's Tacoma Branch Campus.

D. HISTORY:

The areas proposed to be vacated came to the City of Tacoma in 1875, 1887 and 1889, respectively, when the plats of the area were filed for record.

E. PHYSICAL LAND CHARACTERISTICS:

The streets petitioned to be vacated are located within a portion of a fully developed urban historical district being redeveloped as a branch campus of the University of Washington. It is presently zoned MC for mixed commercial uses with B (business) zoning along the northern perimeter of the site.

F. APPLICABLE SECTIONS OF THE OFFICIAL CODE OF THE CITY OF TACOMA:

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1. 9.22.010 PETITION TO VACATE AUTHORIZED: The owners of an interest in any real estate abutting on any street or alley who may desire to vacate any street or alley, or any part thereof, shall petition to the City Council to make vacation in the manner hereafter provided in this chapter and pursuant to RCW 35.79 or the City Council may itself initiate by Resolution such vacation procedure. The City Council shall require the petitioners to compensate the City of Tacoma in an amount which equals one-half of the appraisal value to the area vacated provided that when the vacation is initiated by the City of Tacoma or the

City Council deems it to be in the best interest of the City of Tacoma, all or any portion of such compensation may be waived. The sums received thereunder shall be devoted to the acquisition, improvement and maintenance of public open space land within the City of Tacoma as approved by the City Council upon recommendation of the Director of Planning.

2. 9.22.040 MAJOR STREET PLAN. Vacation of any portion, or portions, of a street indicated on the City of Tacoma's Major Street Plan shall be of a minor nature only and shall not unreasonably limit the public's right to travel upon said street or interfere with the ancillary right to occupy said street for utility purposes. This chapter is intended to protect the paramount rights of way for travel and to protect the safety of the traveling public and other public purposes.
3. CRITERIA: Section 9.22.070 of the Official Code of the City of Tacoma. The following criteria have been considered:
 - a. The vacation will provide a public benefit, and/or will be for a public purpose. The property would be utilized in the development of a branch campus of the University of Washington.
 - b. The right of way vacation shall not adversely affect the street pattern or circulation of the immediate area or the community as a whole. The conditions of the vacation will mitigate any potential adverse effect on the street pattern or circulation of the immediate area or the community as a whole.
 - c. The public need will not be adversely affected.
 - d. The right of way is not needed for future public use.
 - e. No abutting owners will be landlocked or have their access impaired.
 - f. The vacation of right of way is not in violation of RCW 35.79.035.

G. ADDITIONAL INFORMATION:

1. There are existing storm and sanitary sewers within the rights of way; also, Burlington Northern railroad tracks, improved streets including curb, gutter and structural and at-grade sidewalks. There are several overhead and underground power and street light circuits in the affected street rights of way.
2. The Refuse Utility Division has numerous commercial accounts currently being serviced on the streets proposed to be vacated. Access must be made available for the Division's collection vehicles where necessary.
3. South 19th Street is a fully improved principal arterial street which, if vacated, will necessitate re-routing of traffic to South 21st Street.

4. In order to accommodate the increased traffic volumes, South 21st Street will require upgrading to arterial street design standards. This shall include asphalt concrete pavement overlay, railroad crossing upgrade, signalization improvements, and correction of the vertical alignment. Sidewalks and curb ramps shall also be improved to meet ADA standards. The design of all required improvements shall meet the approval of the City Engineer.
5. Jefferson Avenue will require modifications to the signal systems at the South 19th and South 21st Street intersections to accommodate the revised traffic flow. Sidewalks and curb ramps shall be improved to meet ADA standards.
6. When the rights of way are closed, the street returns need to be removed and replaced with curb and gutter and, if required, Type "F" driveways. Repairs to the sidewalks, streets and storm drainage may be required.
7. When the various rights of way are closed, signage and aesthetic barricading need to be installed.
8. A letter has been written to the City Manager by the University of Washington requesting that the University be excused from payment of one-half the appraised value for the vacated rights of way.
9. The Burlington Northern's "Prairie Line" track(s) is(are) located in Hood Street and cross South 19th Street. The University of Washington representatives should come to the Hearing prepared to advise of its' arrangements with the Burlington Northern for the continued use of railroad facilities in the vacated rights of way.

H. THE DEPARTMENTAL RECOMMENDATIONS ARE AS FOLLOWS:

Police Department -- No objection

Health Department -- No objection

Fire Department -- Maintain Fire Department vehicle access and fire hydrants throughout the site.

Public Utilities Department -- See attached memorandum.

US West Communications -- Easements will be required for existing telephone plant, as there are extensive telephone facilities throughout the area. Costs of relocation will be borne by the requesting party.

Washington Natural Gas -- No objection

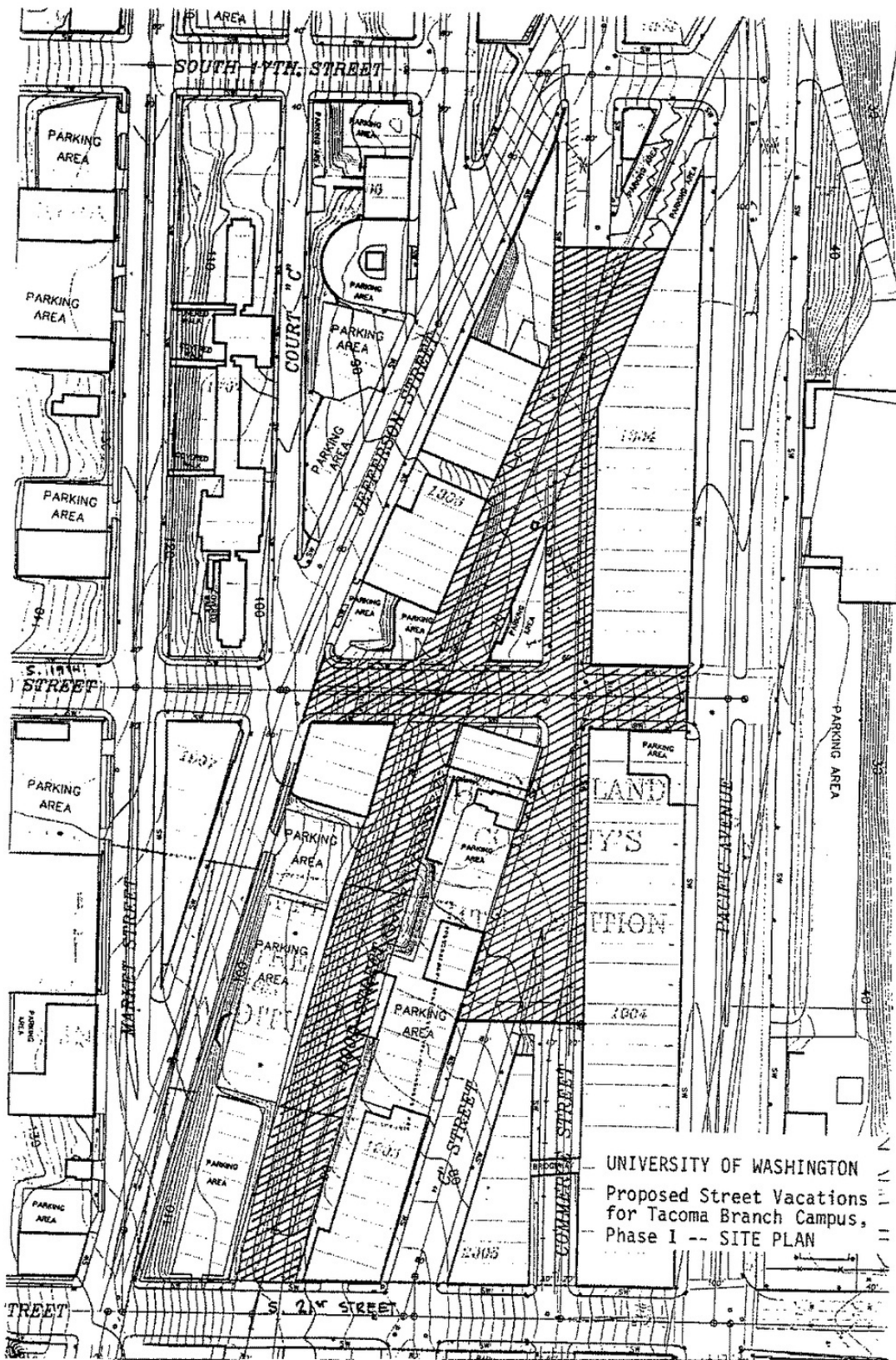
Planning and Development Services -- No objection

TCI Cablevision of Washington -- No objection

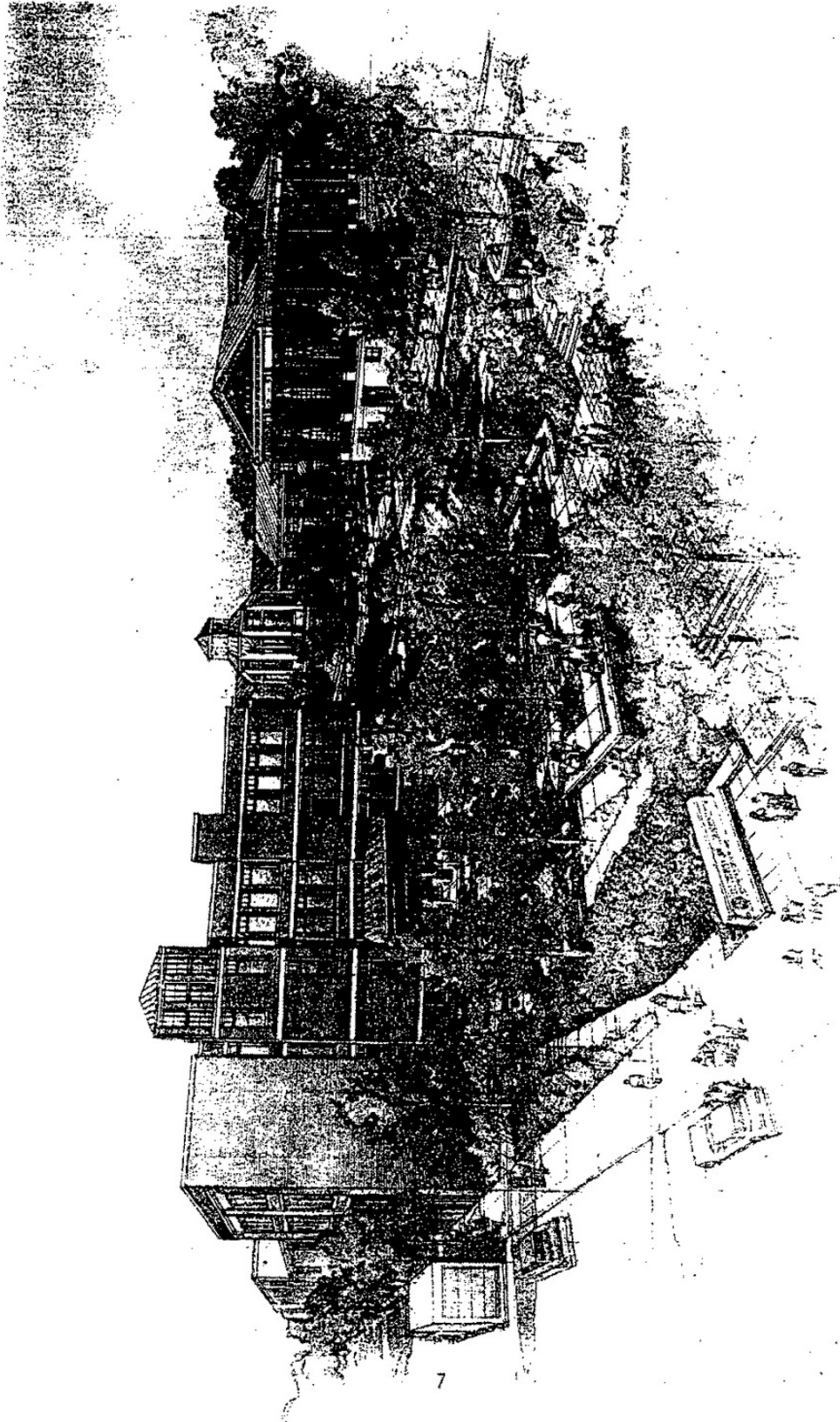
Public Works Department -- The Public Works Department recommends that the vacation petition be granted subject to the following conditions:

1. Easements shall be retained by the City of Tacoma for existing storm and sanitary sewers and light and water facilities.
2. The petitioner shall coordinate with the Public Works and Public Utilities Departments regarding whether existing street lighting will remain or be removed. Any removal and/or relocation will be at the sole expense of the applicant.
3. Easements shall be granted to US West Communications for existing telephone facilities. Any relocation costs will be borne by the University.
4. Existing street returns shall be removed and replaced with cement concrete curb, gutter and sidewalk with storm drainage adjustments and Type "F" driveways, if required, at the following locations:
 - a. The east leg of the intersection of South 19th Street and Jefferson Avenue;
 - b. The north leg of the intersection of South 21st and Hood Streets; and
 - c. South 19th Street at Pacific Avenue.
5. A through connection shall be constructed between Commerce and 'C' Streets; or a suitable turnaround provided at the end of each street.
6. Improvements to South 21st Street and Jefferson Avenue shall be required as outlined in Section G of this report. All construction shall be done under engineering work order to the approval of the City Engineer and at the sole expense of the University of Washington.
7. All storm drainage shall be collected on site and conveyed to the City storm system in a manner approved by the City Engineer.
8. Any new street signs or aesthetic barricades necessitated by the street closures will be installed at the University's expense.
9. If any or all of the rights of way subject to vacation are to remain in use after vacation, an easement for street purposes needs to be granted by the University and held by Public Works until such time as the rights of way are closed to vehicular and pedestrian use.

ATTACHMENT: Vacation Jacket containing all pertinent maps and papers.



UNIVERSITY OF WASHINGTON
Proposed Street Vacations
for Tacoma Branch Campus,
Phase I -- SITE PLAN

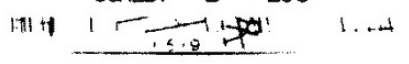


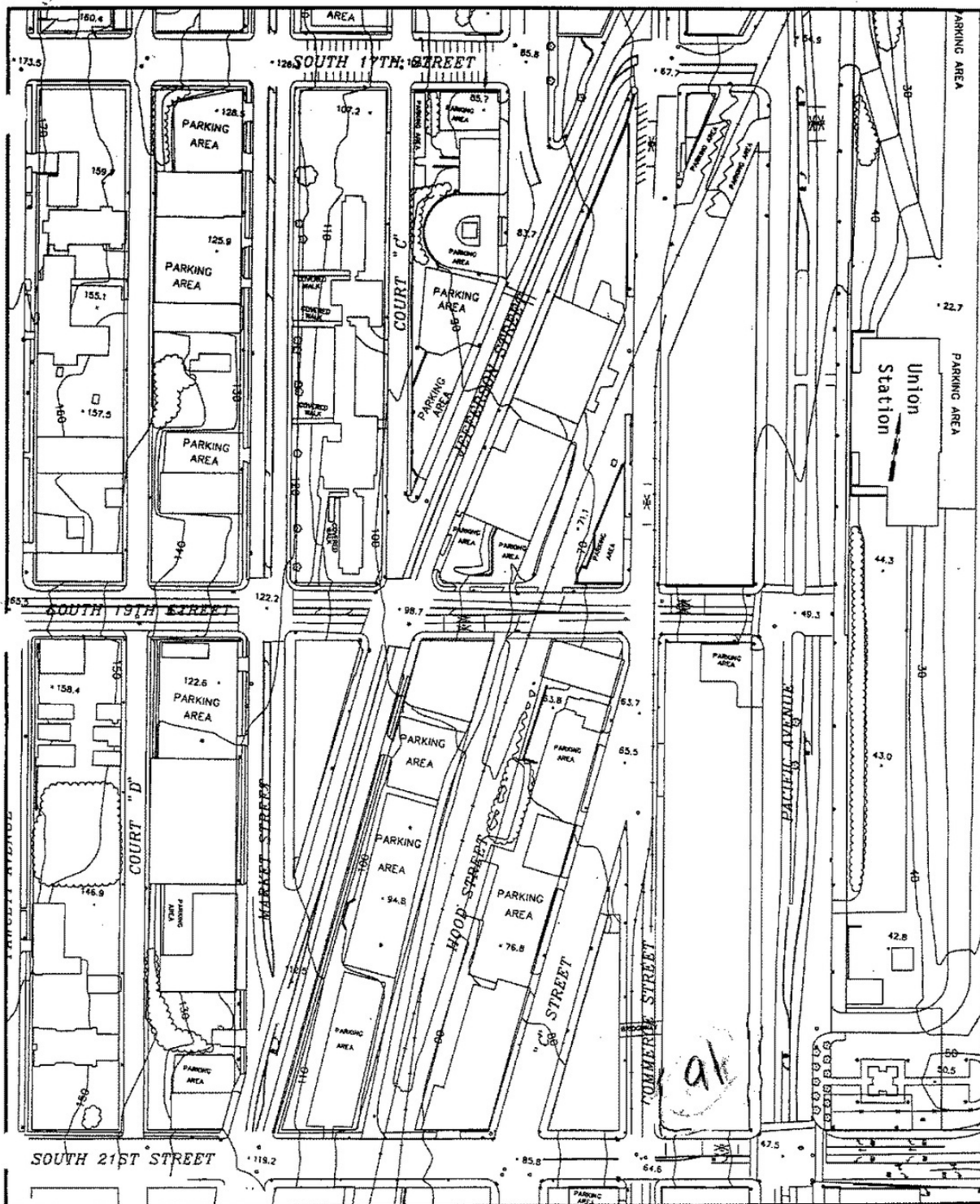
UNIVERSITY OF WASHINGTON
Future Campus - Tacoma Branch

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SEWER MAP
SEC. 4 - 20 - 3E
SCALE: 1" = 200'







CITY OF TACOMA
PUBLIC WORKS DEPT

MEMORANDUM

15-000-7 0011:23

DATE: June 6, 1995

TO: Alan M. Tebaldi, Public Works, Engineering Division Manager

FROM: Carol A. Bellinger, Acting Real Estate Management Supervisor *CBellinger*

SUBJECT: STREET VACATION REQUEST NO. 124.1020

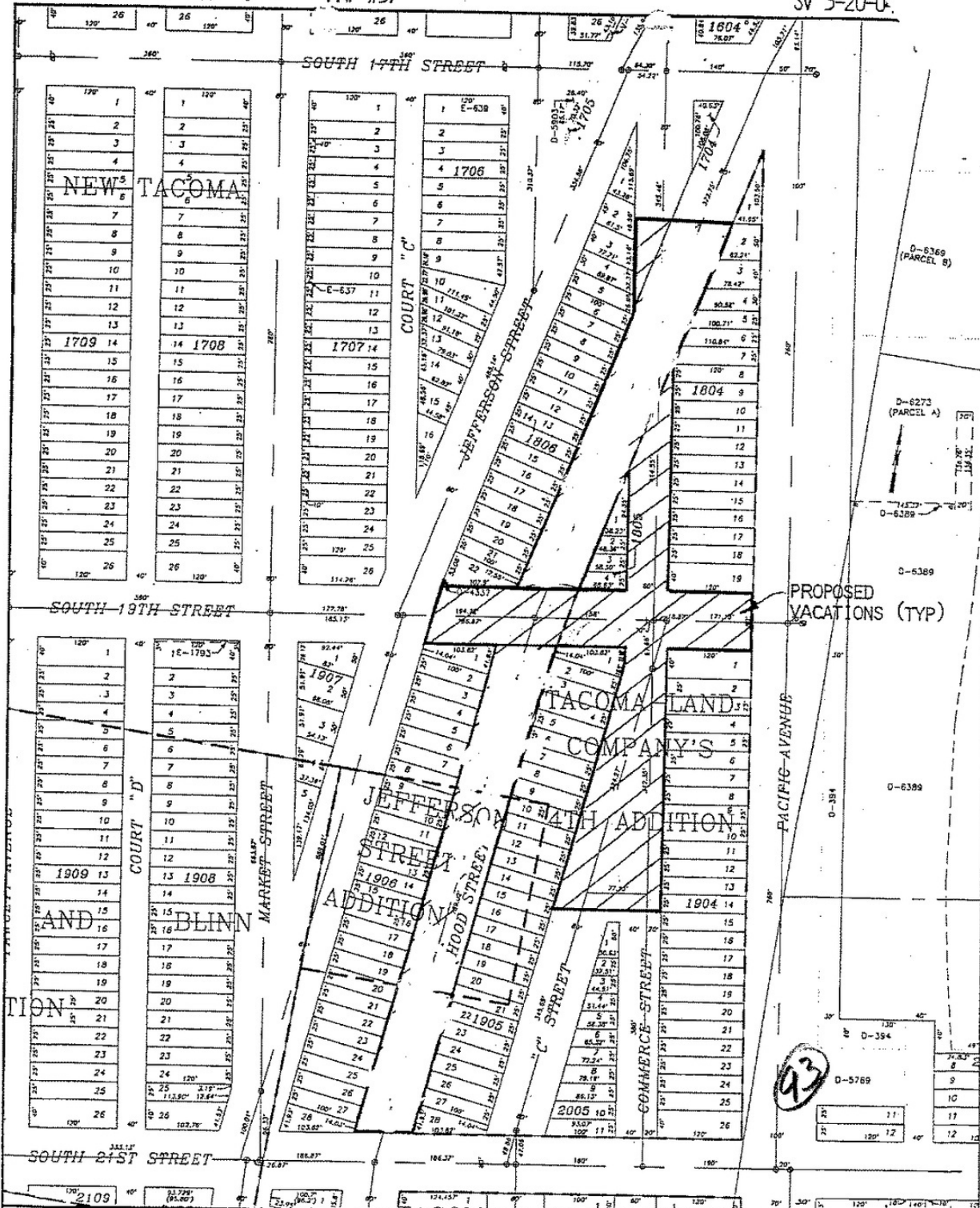
LOCATION: SOUTH 19TH & PACIFIC AVENUE

Both Light and Water Divisions have reviewed the subject request.

The Light Division will need to retain easement on Commerce Street and Hood Street, where it crosses Commerce Street.

The Water Division notes that easements must be granted over the proposed vacation area within "C" Street, Commerce Street, and South 19th Street to accommodate existing Water Division mains, appurtenances, services, and meters. These easements may be changed and additional easements may be required in conjunction with Water Division facilities.

q8 CAB/ld



UW Campus Vacation

SCALE: 1"=NT5

MAY 19, 1935

This drawing is neither a legally recorded map nor a survey and is not intended to be used as one. It is for reference purposes only. The City of Tacoma is not responsible for any inaccuracies herein contained. If discrepancies are found, please contact this office at 594-7891.



To: Rod Kerslake, Hearing Examiner
From: Bob Gower, Property/Right of Way Manager
Subject: University of Washington Street Vacation(s), File No. 124.1020
Date: July 21, 1995

The hearing for the University of Washington street vacation(s) is Tuesday, July 25, at 9:00am.

Attached are two items of information that were not included in our Preliminary Report. If you are unable to accept these at this time return them and I will present them at hearing.

1. A May 19 letter to Ray Corpus identifying the rights of way petitioned to be vacated and information about the University project and vacations.
2. A May 25 letter to Ray Corpus requesting the normal condition of payment of one-half the value of the rights of ways to be vacated be waived.

Bob Gower, ext. 5505, Room 444

A handwritten signature, likely "BG", enclosed in a circular scribble.

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UNIVERSITY OF WASHINGTON

CAPITAL PROJECTS OFFICE

May 19, 1995

Mr. Ray E. Corpuz, Jr., City Manager
747 Market Street, Room 1200
Tacoma, Washington 98402-3766

RE: University of Washington Tacoma
Street Vacation Petition

Dear Mr. Corpuz and the Honorable City Council of Tacoma:

The University of Washington Tacoma is requesting the vacation of two City of Tacoma public right-of-ways. The request is based on the University of Washington Tacoma Master Plan proposed by the Board of Regents. The petition seeks the vacation of:

1. South 19th Street, from the west side of Pacific Avenue to the east side of Jefferson Avenue;
2. Commerce Street, from the intersection with C Street north to the north side of the Burlington Northern Right-of-Way;
3. Hood Street extending from the line between Lots 1 and 2, Block 1804, as extended westerly to the easterly margin of Block 1806, to the northerly margin of South 19th Street, and from the southerly margin of South 19th Street to the line between Lots 14 and 15 Block 1904, as extended westerly to the easterly margin of Block 1905; and
4. South C Street extending from the southerly margin of South 19th Street to the line between Lots 14 and 15, Block 1904, as extended westerly to the easterly margin of Block 1905.

The University of Washington Tacoma Campus area is identified in the attached documents, the Tacoma Campus Master Plan and the Draft and Final Supplemental Environmental Impact Statement.

HISTORY:

In 1985 the Washington State Legislature created the Higher Education Coordinating Board (HEC Board) in response to a declining trend in upper-level college participation and degree production in Washington State. The Legislature directed the HEC Board to develop a comprehensive educational plan to address the state's higher education needs and in 1987, the Board adopted its master plan, Building a System, the Washington State Master Plan for Higher Education. This report concluded that "much of the state's population, especially in the Spokane, Tri-Cities, Vancouver and Puget Sound areas, has insufficient and inequitable access to upper division baccalaureate education."

In 1987, the HEC Board assigned the University of Washington the responsibility for expanding upper-division and graduate programs in the Puget Sound area. In August 1988, the University of Washington submitted its "Plan to Expand Upper-Division and graduate Programs in the Puget Sound Region" to the Board. This plan outlined the need for two campuses. The Tacoma area was identified as one of the two areas. Needs was based on population growth in metropolitan areas surrounding Seattle, the lack of public universities in the area and Washington State's low rate of participation in upper-division education.

In 1989, the Legislature authorized creation of five branch campuses across the state including one in the Tacoma area. The Legislature also authorized the appropriation of \$45 million for the five campuses to the Office of Financial Management for property acquisition and initial campus planning, with specific expenditures to be approved by the HEC Board.

TACOMA CAMPUS.

The University of Washington, Tacoma is intended to serve the "place bound" population of the Puget Sound region. Most of the students using the facilities will attend classes during evening and weekend time periods. The mission of the campus is to offer

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selected, upper division, baccalaureate degree programs and master's degree programs, designed for the working, commuting student who is committed to earning a degree.

The University of Washington, Tacoma is a new facility designed to serve an adult population with specific needs. As students who are typically working and living in the area and commuting to the site their need for quick access to and from the facility; the need for a secure environment and a collegial atmosphere; the need for services, both academic and non-academic is a major program determinant. In order to make it possible for the students to maximize their learning experience within the framework of tight schedules, the facility has been and will be designed to respond to these needs as well as the normal academic requirements of a modern university.

Recommended initial programs include upper division programs in general studies, nursing, education and business. Enrollments will begin modestly and expand with demand, so the site must be able to accommodate facility development over the next twenty years and beyond.

The campus must be able to house the above mentioned diverse needs in a way which, in its initial stages provides a "university campus" atmosphere and at the same time is able to allow for growth and diversity as academic programs, faculty and students increase over time.

While the immediate design date for the Tacoma campus is the year 2010, the master plan anticipates its continued life and growth through the twenty-first century and beyond. The master plan and design for the first phases of construction assume maximum flexibility for the future and at the same time provide an appropriate campus for the first students and faculty.

CAMPUS

The site selected for the University of Washington Tacoma campus is 46 acres bounded by the major streets of Pacific and Tacoma Avenues, east and west; and South 17th and South 21st Streets, north and south. The historic Union Station Warehouse District in downtown Tacoma defines the lower, eastern side of the campus. Over 20 historic brick warehouse structures are located in this part of the campus.

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The campus is strategically located. Tacoma's central business district is three blocks to the north. The Downtown Super Block is adjacent directly north of the campus with the Broadway Theater District and Antique Row beyond. Saint Joseph's Hospital is three blocks west. Union Station, the Federal Courts, and the new Washington State History Museum are across Pacific avenue. Other historic warehouse buildings are immediately south of the site.

MASTER PLAN

The University of Washington Tacoma Master Plan is intended to provide guidance for over 100 years or more. Success is dependent upon a shared and continued acceptance of the most basic tenets of the master plan. These are the general organizational principle or plan diagram, the consistency of the fabric or plan texture and the continuity of the proportion and appearance of the buildings that compose the plan. The best campus plans are those that permit and encourage subsequent architects to do their best work and to so reinforce the strength of the original plan. The University of Washington Tacoma Master Plan depends on three basic tenets. These tenets are intended to guide campus development over the next 100 years. The tenets are the plan diagram which is the general organizational principle, the plan texture which is the consistency of the fabric of the campus and the buildings themselves which define the continuity of the proportion of the campus and the appearance.

The three basic elements of the plan diagram and the basic structure of the plan itself are the existing grid of city streets and the rail line, with 19th Street's axis predominant, the unique regional views from the campus and the existing historic buildings. These three elements are the strongest influences in establishing future plan evolution. It is critical that the earliest phases of campus development emphasize the importance of these elements. The vacation of a limited number of City streets is key in setting the fabric of the campus. In addition, the setting of the three major open spaces and their shape solidify the campus for the future.

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Plan texture is made up of less detailed control than the overall structure of the plan and is defined by the configuration of individual spaces, secondary streets and courts that fill out the plan. The character and general feeling of all areas of the campus is critical to the successful implementation of the plan, and this can be established through a series of prescriptive guidelines controlling proportion of open space, amount of natural light in the open spaces, and presence of views.

Buildings, existing, proposed and future, are the final plan tenent. While the existing historic warehouse structures establish a general vocabulary of massing, character and materials that should set the theme for the campus, it is important to note that the intent is not for the new buildings to be literal recreations of the existing ones. The intent of these guidelines as they relate to all buildings, existing and new, is to permit the new interventions the freedom to be expressive of their time and function within carefully crafted constraints. The resulting ensemble of buildings should be harmonious and in keeping with one another without being repetitive. Such variety is already apparent from the facades that line Pacific Avenue, because they represent a range of several decades of stylistic development as well as a hierarchy of importance and investment.

PHASING

Construction of the campus facilities will occur in phases based on the biennial state funding cycles. The goal is to build enough space in each phase that the facility will always be "grown into" rather than outgrown. Phases Ia and Ib will establish the core campus at the intersection of Pacific and South 19th Street with Commerce Street as the primary circulation spine and with Library Plaza and Pacific Gateway Plaza as its focal open spaces. The Snoqualmie Falls Transformer Building is the site of the library.

Phase II will continue consolidation of the core campus with the expansion of the library further to the south, the construction of a new building to the west and the completion of more shell space within the historic buildings along Pacific Avenue.

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With the development of phase III, the basic structure of the master plan will have taken place. The two additional major open spaces, University Green and Tacoma Gateway Plaza will be defined by buildings, new paving and landscaping.

ENVIRONMENTAL REVIEW

Numerous environmental reviews have occurred regarding this project. Draft and Final Environmental Impact Statements were prepared (July and September) which dealt with site selection. The documents were titled University of Washington Branch Campus Site Selection, Tacoma Area Draft and Final Environmental Impact Statement. After site selection a Draft Supplemental Environmental Impact Statement was issued on December 12, 1994. There was a 45 day comment period. A public hearing was held on January 18, 1995. A Final Supplemental Environmental Impact Statement was issued on April 28, 1995 which responded to comments on the Draft Supplemental EIS and raised at the public hearing. The Draft Supplemental EIS, in Appendix A, contains an analysis of alternatives regarding street vacations. Copies of these documents are included in this petition. Additional copies are available.

STREET VACATION ANALYSIS

The following analysis relates to the vacation of South 19th Street, from Pacific Avenue to Jefferson Avenue and Commerce Street, from the intersection of C Street to the intersection of the Burlington Northern Railroad right-of-way.

Criterion 1. The vacation will provide a public benefit, and/or will be for a public purpose.

The intent of the proposed street vacations is to make possible the creation of a network of high quality open spaces, vistas, and pedestrian connections designed for academic and public use and enjoyment. Pedestrian access would be enhanced by minimizing vehicular traffic.

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The goal of the street vacations is to create a major gateway plaza as a primary entrance to the lower campus. Similarly, a major gateway entrance to the upper campus and a wide pedestrian connection to the two-acre University Green open space would be created by the vacation of South 19th Street Between Jefferson and Tacoma Avenue. These major entries would serve to emphasize pedestrian circulation on campus, as well as facilitate public access.

The vacation of South 19th Street, from Pacific Avenue to Jefferson Avenue and Commerce Street, from the intersection of C Street to the Burlington Northern Railroad right-of-way would allow the creation of a pedestrian link from the Library Plaza and the Pacific Gateway Plaza and would allow future creation of the University Green.

The public would benefit because the street vacations would allow the University as a higher educational institution and governmental agency to fulfill its mission of teaching, research, and public service. As a major institution, the University contributes to public health, human services, local employment opportunities, and diversification of the City's economy.

In addition vacation of the streets will increase the amount of open space available to the public. This area of the City currently has very limited open space. The campus will provide much needed open space opportunities for the entire community.

Criterion 2. The vacation of right of way shall not adversely affect the street pattern or circulation of the immediate area or the community as a whole.

Jefferson Street, the primary traffic corridor traversing the campus area, would remain open to public vehicular traffic. As a result of proposed closure of South 19th Street, traffic would be routed to Jefferson Avenue and 21st Street to the south along Tacoma Avenue and South 15th Street to the north. This rerouting is shown in Figures 1.1-1 and 4.2-1 of the Draft Supplemental EIS. Closure of Commerce Street would shift north/south traffic to Pacific or Jefferson Avenues.

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The primary impact of vacating these streets is the resultant increase in traffic volumes on adjacent streets and intersections. As a result of Phase I street closures, the level of service (LOS) of all but one of the signalized intersections would remain unchanged and operate at acceptable levels. Overall LOS at the intersection of SR-509/I-705 would decline from LOS B to LOS C with project traffic. LOS C is considered acceptable under City of Tacoma traffic standards and does not require mitigation. The intersection of 21st Street and Jefferson Street will require signalization which the University agrees to provide.

19th Street contains a bus route which would have to be re-routed. The University has worked with Pierce County Transit which has agreed to re-route transit service. The rest of the street are not served by transit and no changes in existing routes of frequency of service would be required as a result of the street vacations.

Criterion 3. The public need shall not be adversely affected.

Presently, the portion of the campus site affected by proposed street vacations contains a mix of warehouse, industrial, commercial, office, residential, and institutional uses. The updated City of Tacoma General Land Use Plan (1993) designates future use in this area for high intensity concentration as a mixed-use center, clustering a variety of land uses. Both the General Land Use Plan and the Central Business District Plans for both the CBD Core and Greater CBD recommend high density, pedestrian-oriented development for the campus area. Proposed development of the area for higher educational institution and governmental agency use is compatible with these projected land uses.

As a mixed use development, the University would maintain commercial and retail occupants until space is needed for academic program space. However, some commercial and retail space will remain in the final "build-out" of the Master Plan.

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The proposed vacations would create two major gateway entrance plazas to campus intended to promote pedestrian activity, consistent with recommended land use for the area.

Criterion 4. The right of way is not contemplated or needed for future public use.

None of the land use planning documents relevant to the campus area indicate that the rights of way proposed for vacation are contemplated nor needed for future public use.

Utility easement will be identified for existing utilities.

Criterion 5. No abutting owner becomes landlocked or his access will not be substantially impaired; i.e. there must be an alternative mode of ingress and egress, even if less convenient.

The University owns all of the property adjacent to the proposed vacated streets and all the the property within Phase I boundaries. Thus the proposed vacations would abut only University property. Access to University uses proposed adjacent to these streets would be congruous with the street closures.

Criterion 6. The vacation of right of way shall not be in violation of RCW 35.79.035 (State Law) which imposes limitations on vacations of streets abutting bodies of water.

None of the proposed street vacations is located adjacent to fresh or salt water bodies. Thus, the provisions of this statute do not apply in this case.

CONCLUSION

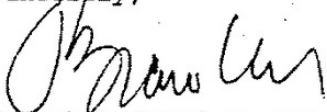
The street vacations requested by the University have been carefully analyzed. The vacations are consistent with the City's street vacation policies. Substantial public benefits will be achieved only through the requested street vacations.

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Please process this street vacation petition. We will be happy to meet with City review staff from each department to provide a more thorough presentation on the plan and street vacations; answer questions; create a tracking system and establish a schedule. The University maintains a liason with the City of Tacoma. Please provide us or our liason, Mr. Reuben Amamillo (591-5193) with a list of contacts. We look forward to continuing our joint efforts with City of Tacoma staff.

Please contact Sharon Coleman, Project Manager, at 543-5200, if any additional information is needed.

Sincerely,



Joseph C. Brawley, AIA
Projects Director for Central and Branch Campus

cc: Sharon Coleman
Connie Miller
Neal Lessenger
Sue Harvey
Bill Richardson
Al Tebaldi, City of Tacoma
Reuben Amamillo, City of Tacoma

Attachments: City of Tacoma Street Vacation Petition
University of Washington Tacoma Campus
Master Plan
Draft Supplemental Environmental Impact
Statement
Final Supplemental Environmental Impact
Statement
Location Plan showing proposed street vacations
University of Washington Legal Descriptions
for proposed Street Vacations
Check/Fee

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UNIVERSITY OF WASHINGTON
SEATTLE, WASHINGTON 98195

Capital Projects Office

May 25, 1995

Mr. Ray E. Corpuz, Jr.
City Manager
747 Market Street, Room 1200
Tacoma, WA 98402-3766

Dear Mr. Corpuz:

The University of Washington is requesting a waiver of street vacation fees per section 9.22 Vacation of Streets of the Tacoma Municipal Code and specifically section 9.22.010.

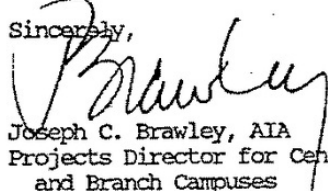
By letter dated May 19, 1995 the University of Washington petitioned for vacation of a portion of four City of Tacoma rights-of-way. Tacoma Municipal Code section 9.22.010 provides that the City Council may waive all or any portion of compensation otherwise due for street vacations if the vacations are deemed to be in the best interest of the City of Tacoma.

The University of Washington hereby requests the waiver of all compensation including appraisal fees and land costs. The Tacoma Municipal Code provides that the sums received by the City under the vacation compensation provisions shall be devoted to the acquisition, improvement, and maintenance of public open space land within the City of Tacoma. In accordance with the approved Master Plan for the University of Washington, Tacoma campus, the streets addressed in the referenced petition will become devoted to open space. These areas will be improved and maintained by the University of Washington.

This proposal meets the intent of the City's fee waiver provisions and should be approved.

Please contact us if you need additional information.

Sincerely,


Joseph C. Brawley, AIA
Projects Director for Central
and Branch Campuses

cc: Sharon Coleman
Mark Green
Neal Lessenger
Sue Harvey
Bill Richardson
Al Tebaldi, City of Tacoma
Reuben Amaillo, City of Tacoma

University Facilities Building, FJ-05 / Telephone: (206) 543-5200



REQUEST FOR ORDINANCE OR RESOLUTION

CITY CLERK USE

Request #

Ordinance #

Resolution #

574
25845

1. Date: **January 22, 1996**

Requesting Department/Division/Program	Sponsored By	Phone/Extension
2. HEARING EXAMINER	RODNEY M. KERSLAKE Hearing Examiner	
Contact Person (for questions):		Phone/Extension
3. Sue Evans		5196

4. Preparation of Ordinance is requested for the City Council meeting of Tuesday, February 13, 1996.

5. Summary Title/Recommendation: (A concise sentence, as it will appear on the Council Agenda)

Petitioner: University of Washington

File No. 124.1020

A petition to vacate portions of South 19th Street and adjacent streets lying between Pacific and Jefferson Avenues.

6. Background Information/General Discussion: (Why is this request necessary? Are there legal requirements? What are the viable alternatives? Who has been involved in the process?)

The request is for the purpose of consolidating property to facilitate construction within the proposed Phase I development of the University of Washington Tacoma campus.

7. Financial Impact: (Future impact on the budget.)

8. List all material available as backup information for the request and indicate where filed:

Source Documents/Backup Material

Location of Document

Order Granting in Part and Denying In Part Motions for
Reconsideration and Amending Report

Attached

Hearing Examiner's Report and Recommendation

Attached

Departmental Report

Attached

Plans

Attached

9. Funding Source: (Enter amount of funding from each source)

Fund Number & Name:	State \$	City \$	Other \$	Total Amount
------------------------	----------	---------	----------	--------------

If an expenditure, is it budgeted? ☐ Yes ☐ No Where? Org # Acct #

10. Department Director/Utility Division Approval	Approved as to Availability of Funds Director of Finance	City Manager/Director Utilities Approval
---	---	--

RECOMMENDATION:

*Mailing list,
w/w appeal*

The vacation petition, as amended at hearing, should be granted subject to the conditions set forth in Conclusion 6 herein, except that South 19th between Jefferson Street and Pacific Avenue should not be vacated unless and until the City's Major Street Plan is amended to delete that portion of South 19th Street therefrom. It is further recommended that, pursuant to TMC 9.22.010, the "one-half appraised value charge" for the street rights-of-way proposed to be vacated herein be waived.

DATED this 15th day of September, 1995.


RODNEY M. KERSLAKE, Hearing Examiner

TRANSMITTED this 15th day of September, 1995, via certified mail to the following:

Joseph C. Brawley, AIA, Projects Director for Central and Branch Campuses,
Capital Projects Office, University Facilities, Box 352205, Seattle, WA
98095-2205

TRANSMITTED this 15th day of September, 1995, via certified mail to the following:

Attorney General of Washington, Attention: Mark S. Green, Assistant Attorney
General, University of Washington Division, 101 Administration, AF-50,
University of Washington, Seattle, WA 98195
Stephanie A. Arend, Attorney at Law, P. O. Box 1157, Tacoma, WA 98401-1157
Larry Leggett, Attorney at Law, 110 110th Avenue N.E., Suite 607, Bellevue, WA
98004
George See, 1032 S. 72nd Street, Tacoma, WA 98404
Alexander McLaren, 1953 South "C" Street, Tacoma, WA 98402
Fred Roberson, Roberson Building Company, 10828 Gravelly Lake Dr. S.W.,
Suite 204, Tacoma, WA 98499
Graham J. Fenton, B.D.F. Tacoma, General Managing Partner, McDonald/Smith
General Partnership, 8313 Onyx Drive S.W., Tacoma, WA 98498
Victor Brower, 45 Broadway South, Apt. 6, Tacoma, WA 98402
Burlington Northern Railroad, Attention: Steve H. Myhr, Manager Property
Management, 999 Third Avenue, Room 2100, Seattle, WA 98104-4080
US West Communications, Attention Mike Spivey, Engineer, 7850 S. Trafton,
Bldg. "B," Tacoma, WA 98402-5842

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CITY OF TACOMA

INTER-DEPARTMENTAL COMMUNICATION

TO: Doris Sorum, City Clerk
FROM: Kyle J. Crews, Assistant City Attorney
DATE: July 31, 2002
SUBJECT: Street Vacation File No. 124.1020
Applicant: University of Washington

Please place Ordinance No. 25845 on the Council agenda of August 13, 2002, for second reading.

The Hearing Examiner will cover the second reading. As of the date of this memo, the jacket is located in the Legal Department.


A substitute ordinance will be prepared revising the easement language.

KJC/tmh

cc: Louisa Legg, Hearing Examiner's Office
Rick Brush, General Services, Asset Management
Rich Price, General Services, Asset Management

RECEIVED
CITY OF TACOMA
JUL 31 2002
OFFICE OF THE CITY CLERK

CITY OF TACOMA
INTER-DEPARTMENTAL COMMUNICATION

TO: Teresa, for Scott Thomas, Assistant City Attorney
FROM:  Rick Rosenblatt, Acting General Services Director/City Clerk
SUBJECT: Street Vacation, Ord. 25845, File 124.1020, University of Washington
DATE: February 15, 1996

Attached is the jacket for Street Vacation No. 124.1020, vacating portions of South 19th Street and adjacent streets lying between Pacific and Jefferson Avenues to facilitate construction within the proposed Phase I development of the University of Washington Tacoma Campus. (University of Washington, File No. 124.1020)

Please advise this office when you wish to have Ordinance 25845 placed on the Council Agenda for final reading.

Ordinance No. 25845

First Reading of Ordinance: 2-13-96

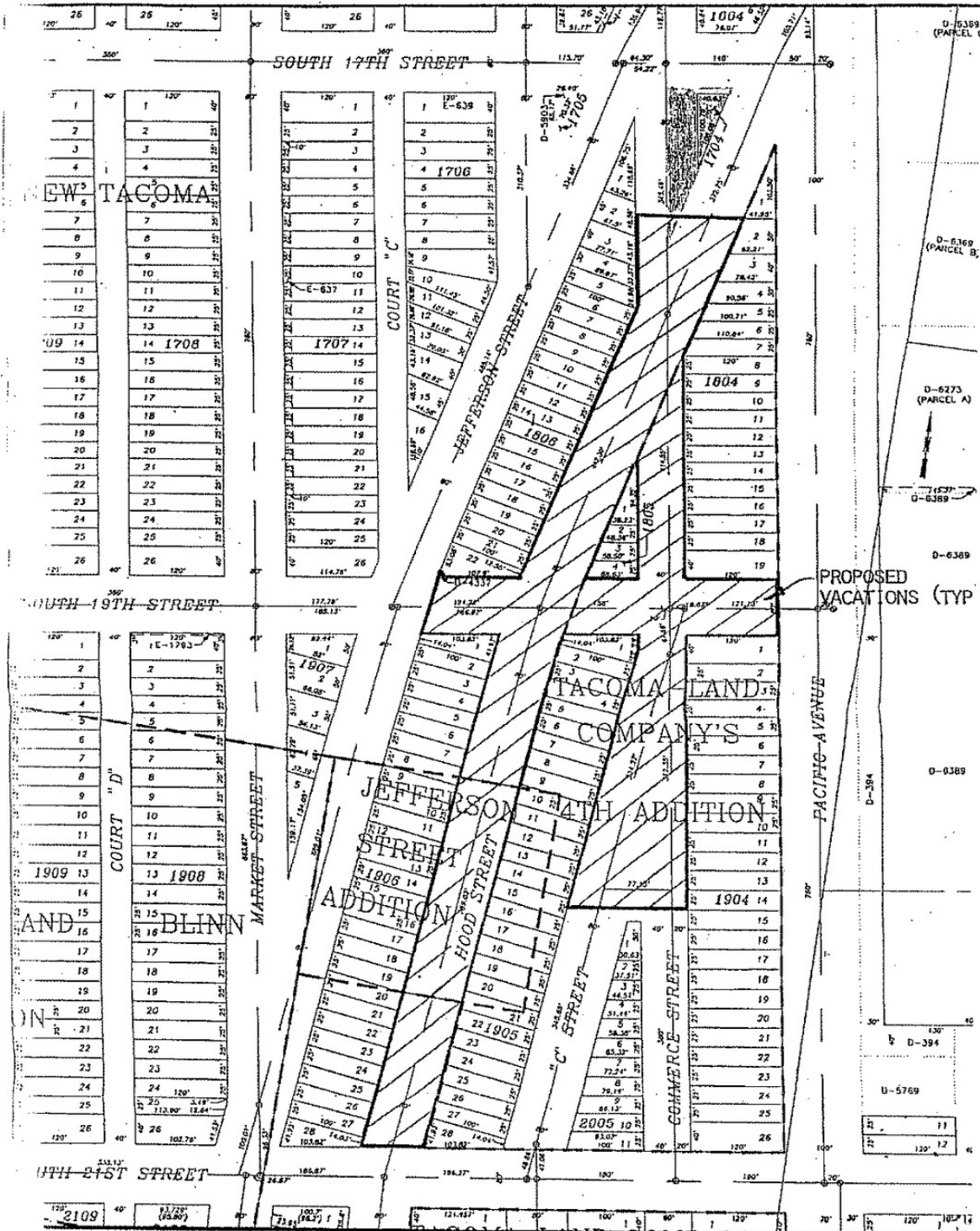
Final Reading of Ordinance: AUG 13 2002

Passed: AUG 13 2002 (Substitute)

Roll Call Vote:

MEMBERS	AYES	NAYS	ABSTAIN	ABSENT
Mr. Evans	✓			
Ms. Ladenburg				✓
Mr. Lonergan	✓			
Dr. McGavick	✓			
Mr. Miller	✓			
Ms. Moss	✓			
Mr. Phelps	✓			
Mr. Talbert	✓			
Mayor Baarsma	✓			

MEMBERS	AYES	NAYS	ABSTAIN	ABSENT
Mr. Evans				
Ms. Ladenburg				
Mr. Lonergan				
Dr. McGavick				
Mr. Miller				
Ms. Moss				
Mr. Phelps				
Mr. Talbert				
Mayor Baarsma				



UW Campus Vacation

SCALE: 1"=NTS

MAY 19, 1995

This drawing is neither a plat map nor a survey and is to be used for purposes only. The City of Tacoma is not responsible for any inaccuracies contained. If discrepancies are found, please contact this office at